United Nations E/CN.15/2001/4

# Economic and Social Council

Distr.: General
30 March 2001

Original: English

**Commission on Crime Prevention and Criminal Justice**
Tenth session
Vienna, 8-17 May 2001
Item 4 of the provisional agenda*
**International cooperation in combating transnational crime**

## Conclusions of the Study on effective measures to prevent and control high-technology and computer-related crime

### Report of the Secretary-General

*Summary*

The present report responds, in part, to the request of the Economic and Social Council, in its resolution 1999/23 of 28 July 1999, that the Secretary-General conduct a study on effective measures that could be taken at the national and international levels to prevent and control computer-related crime. It provides a preliminary examination of the subject and recommends that a more detailed study be undertaken and submitted for consideration by the Commission on Crime Prevention and Criminal Justice at its eleventh session as a matter of high priority. It further recommends that the Commission at its eleventh session consider a series of options for further action, including the possible drafting of an international instrument against computer-related crime and options for a shorter-term strategy, including the establishment of a United Nations global programme against high-technology and computer-related crime. It also provides information about the activities of other relevant international and intergovernmental organizations and seeks to respond to some of the concerns raised by individual Member States.

* E/CN.15/2001/4.

V.01-82399 (E) 250401 260401

# Contents


| | | Paragraphs | Page |
|---|---|---|---|
| I. | Introduction | 1 | 3 |
| II. | Background | 2-34 | 3 |
| | A. Consideration by other intergovernmental or international organizations | 2-12 | 3 |
| | B. Activities of the United Nations | 13 | 5 |
| | C. The nature of computer-related and high-technology crime: a preliminary typology | 14-29 | 7 |
| | D. Assessing the scope and costs of computer-related and high-technology crime | 30-34 | 9 |
| III. | Conclusions and recommendations: the development of global policies for the prevention and control of computer-related and high-technology crime | 35-55 | 11 |
| | A. The need to treat high-technology and computer-related crime as a distinct subject | 35 | 11 |
| | B. The need to assist developing countries | 36-39 | 11 |
| | C. The need to consider international, national and private-sector measures | 40-41 | 12 |
| | D. The role of the United Nations | 42-49 | 12 |
| | E. Elements of a detailed study | 50 | 14 |
| | F. Options and specific recommendations for further work on high-technology and computer-related crime | 51-55 | 15 |

# I. Introduction

1. The problem of criminal activity involving modern computer, computer-network and telecommunications technologies continues to represent a significant challenge to the criminal justice and law-enforcement communities of Member States. That challenge can be seen as having the following distinct elements:

(a) The challenge is global. In the past, most of the users of modern technologies, and hence most of the offenders and victims, have been located in developed countries. The extension of access to developing countries has been identified as a major priority, in order to ensure that the global information society becomes a factor that supports development rather than a further obstacle to it.[1] Developing countries will be vulnerable to computer and telecommunications crime and could be excluded from access to computer and communications networks by crime prevention or security technologies if they are not able to participate in the development and implementation of crime-control policies;

(b) The challenge is dynamic. The rapid development of new technologies results in an equally rapid development of criminal innovations, and the global nature of the technologies results in the rapid spread of new criminal techniques. Monitoring both legitimate development and criminal innovation in order to keep domestic and international responses up to date will therefore be critical, in particular in countries where technical resources are limited. The process is primarily driven by technological development, and is therefore open-ended;

(c) The challenge is multidisciplinary. The development of computer and telecommunications network technologies underlies a major shift from social and economic activities involving physical exertion and commodities to those involving pure information or knowledge. That raises major implications in fields such as human rights and sustainable social and economic development. It will be important for crime control to become an element of those agendas, and vice versa. Information technologies and the architecture of computer and telecommunications networks are also largely the products of private-sector development, and the development of measures against high-technology and computer-related crime must take into consideration factors such as commercial viability and the economic competitiveness of the technologies involved.

# II. Background

## A. Consideration by other intergovernmental or international organizations

2. The growing concern of States about the nature and extent of the problem and the need for effective global measures against it is evidenced by the number of forums in which it has been considered.

### 1. The Council of Europe

3. The Council of Europe is nearing completion of the text of a Convention on Cyber-crime,[2] which will deal with criminal offences relating to interference with systems, unauthorized access, electronic fraud and forgery, offensive content and intellectual property offences. The draft text deals with investigative powers, including the tracing of communications and the search for and seizure and preservation of electronic evidence. It will also define basic terms and set standards for mutual legal assistance and other forms of international cooperation. When successfully completed, it will represent the first attempt at a comprehensive international instrument against computer-related crime. The completed draft text has met with a mixed reception. Generally, Governments, experts and law-enforcement agencies see it as a positive development, although many feel that some of the more difficult issues have not been addressed. Many interest groups take the position that international networks should not be regulated, and have attacked the instrument as an attempt to extend domestic law enforcement powers at the expense of individual privacy and other interests.

4. The negotiations on the text of the instrument were conducted by a Committee of Experts on Crime in Cyberspace, established in February 1997 following several earlier studies of the problem.[3] In addition to regular members of the Committee, experts from Canada, Japan and the United States of America were invited to participate in its proceedings, and other States joined the process during the course of

negotiations. The Committee produced 25 successive draft texts during the term of its mandate, which concluded in December 2000. The final text has been submitted to the Parliamentary Assembly of the Council of Europe. It will subsequently be submitted to the European Committee on Crime Problems for review in June 2001, and, if approved, would then be transmitted to the Committee of Ministers of the Council of Europe for adoption.

### 2. The Group of 8

5. Following discussions about the problems arising from transnational crime at its summit meeting held in Halifax, Canada, in June 1995, the seven major industrialized countries and the Russian Federation (Group of 8) established the Lyon Group of Senior Experts on Transnational Organized Crime, which included a subgroup of experts on computer-related crime. The subgroup has met regularly since 1997 and produced a number of initiatives. The major concerns that it examined were the problems posed by cross-border electronic searches, the tracing of communications and the need for cooperation between Governments and relevant private-sector interests.

6. In December 1997, the Group of 8 adopted a 10-point action plan on cybercrime that included the review of legislation, measures to ensure the availability of trained and equipped law enforcement personnel, the consideration of cybercrime issues when negotiating legal assistance agreements, consideration of methods for preserving electronic evidence and making it available in foreign criminal proceedings, better cooperation with industries and forensic and other technical standards for computer security and the use of electronic evidence in legal proceedings.[4]

7. In 1999, the Group of 8 adopted some preliminary basic principles for law enforcement agencies seeking access to electronic data stored in foreign States.[5] In general, it agreed that data could be freely accessed if publicly available, as would be the case on an open web site, for example, or where the consent of a person with lawful authority to access and disclose the data was obtained. For data not publicly available, searchers face a dilemma. If they do not copy the data quickly, offenders will usually erase it. If they do copy it without first asking the permission of the State in which it is located, serious issues arise with respect to the sovereignty of that State and the protection of the rights of persons with an interest in the data being seized. The principles agreed upon by the Group of 8 involve a request for expedited mutual legal assistance. The State in which the data are located would be asked to take immediate steps to preserve them pending more formal assistance to ensure their seizure and disclosure to the requesting State. The transfer of the data to the requesting State would then be accomplished using more conventional proceedings and safeguards for mutual legal assistance.

8. Also under consideration are basic principles for the tracing of communications on computer networks. Electronic records of the source and destination of communications such as electronic mail are kept by most service providers, but only for limited periods of time. Records that can be used to trace communications and identify the system users involved can in most countries only be accessed using judicially reviewed search and seizure operations. That does not pose a serious obstacle to tracing most domestic communications, but in transnational cases the delays are increased by the additional need to make requests through mutual legal assistance channels. That problem is known to sophisticated offenders, who exploit it by routing their communications through large numbers of different countries between source and destination, or routing them through countries that lack the laws or infrastructure to conduct successful traces in order to conceal the true origin or destination of their communications.

9. To facilitate fast cooperation between law enforcement agencies in transnational cases, the Lyon Group recommended the establishment of a network of contacts in each State who could be called upon 24 hours a day, seven days a week, to provide competent investigative assistance. The network initially consisted of States members of the Group of 8, but it has now been expanded to include 19 countries and operational responsibility has been transferred to the International Criminal Police Organization (Interpol).

10. To bring together Government and private-sector interests, the Group of 8 has held several conferences on cooperation with industry.[6] In general, industry representatives include companies that develop computer and telecommunications hardware, software and other infrastructure elements and those that provide services to individual users. The discussions have considered issues relating to the willingness and ability

of companies to cooperate with law enforcement and the need for crime prevention through customer education and the incorporation of security elements into new, developing technologies.

### 3. Other international or intergovernmental organizations

11. The question of high technology and computer-related crime has also been taken up by other intergovernmental and international organizations, both as a distinct topic and in the context of other crime-related considerations such as money-laundering and transnational organized crime. The Commonwealth began examining those questions in 1998, placing the subject on the agenda of a meeting of the Commonwealth Law Ministers in May 1999. That meeting established a working group of experts on computer and computer-related crime to draft model legislation for Commonwealth countries, but deferred work on the project until the conclusion of the Council of Europe Convention on Cyber-crime. Work resumed in July 2000 and draft model legislation is being prepared. The Commonwealth also undertook to circulate materials on international developments to its member States, and to review Commonwealth schemes dealing with fugitive offenders and mutual legal assistance to ensure that such schemes would extend the necessary forms of cooperation to the new field of high-technology crime.

12. Interpol has also become active, establishing a series of regional working parties on information technology crime. The research conducted and materials produced by Interpol have tended to reflect the needs and concerns of law enforcement. Materials for use in training investigators include a handbook for novice investigators and a more elaborate computer crime manual setting out best practices and techniques for advanced investigators. Interpol is also aware of the need to use high-technology media to disseminate information to law enforcement agencies and is establishing a web site for that purpose. It has assumed responsibility for maintaining an up-to-date directory of the network of contacts originally established by the Lyon Group. Interpol plans further activities, in particular in the area of law enforcement training, and will monitor or participate in the activities of other international organizations to share information and avoid duplication of effort.

## B. Activities of the United Nations

13. The issue of crime involving computer and telecommunications technologies has been addressed in the activities of the United Nations and remains under active review. In addition to the present study, conducted pursuant to Economic and Social Council resolution 1999/23 of 28 July 1999,[7] the following action has been taken to deal with that issue:

(a) In General Assembly resolution 45/109 of 14 December 1990 and Economic and Social Council resolution 1996/11 of 23 July 1996, Member States are urged to employ modern computer technologies for the more effective and efficient administration of criminal justice operations and information systems. The Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana from 27 August to 7 September 1990, recommended the development of an international instrument dealing with the computerization of criminal justice systems.[8] The matter was taken up at a two-day workshop held during the Ninth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Cairo from 29 April to 8 May 1995, which noted that there was a need for computerization in order to keep pace with new forms of crime, but that there were concerns about privacy, human rights and the interoperability of systems within and between countries. The workshop also noted the need for technical assistance in the form of both financial resources and technical expertise.[9] In general, the process focused on the use of computers in the administration of criminal justice and the gathering of statistical information, rather than on the use of computer networks as an investigative or operational tool. More recently, provisions to enhance the use of modern technologies in crime control were incorporated into the United Nations Convention against Transnational Organized Crime,[10] and the electronic distribution of documents played an important role in the negotiation process;

(b) The Eighth Congress also considered the problem of computer-related crime itself,[11] recommending a series of measures relating to:

(i) The modernization of domestic offences, investigative procedures, rules of evidence, forfeiture or restitution, mutual legal assistance and extradition provisions, in order to ensure their

extension to cases involving computer-related crime;

(ii) The improvement of computer security and other technical measures for crime prevention;

(iii) The education of members of the public and the training of officials in the investigation, prosecution and adjudication of cases involving computer-related crime;

(iv) The development and dissemination of rules of ethics in the use of computer systems;

(v) The development of policies for dealing with victims of computer-related crime, including measures to encourage the reporting of such crimes;

(c) As recommended by the Eighth Congress in its resolution 9, the *United Nations Manual on the Prevention and Control of Computer-related Crime* was published in 1994[12] as a resource for investigators and policy makers, and has been made widely available on the Internet;

(d) The question of computer-related crime was also included in the agenda of the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Vienna from 10 to 17 April 2000. During the Tenth Congress, a one-day workshop on the subject was organized by the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders.[13] The workshop consisted of four panel discussions on the following topics: the criminology of computer-related crime; problems associated with search and seizure on computer networks; problems associated with the tracing of communications on computer networks; and the relationships between law enforcement agencies and the computer and Internet industries. Leading experts in the field briefed participants on current issues and progress in discussions in the Council of Europe, the Group of 8 and other forums. In addition to the representatives of participating States, several industry representatives participated. The workshop made several recommendations, including calls for greater cooperation between Governments and industry, improved international cooperation in tracing offenders and further action by the United Nations regarding the provision of technical cooperation and assistance;[14]

(e) The Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, adopted by the Tenth Congress[15] and endorsed by the General Assembly in its resolution 55/59 of 4 December 2000, also dealt with high-technology and computer-related crime. In paragraph 18 of the Vienna Declaration, Member States decided to develop action-oriented policy recommendations on the prevention and control of computer-related crime, and committed themselves to working towards enhancing their ability to prevent, investigate and prosecute such crime. The Commission on Crime Prevention and Criminal Justice was invited to undertake the development of those policy recommendations, taking into account work already under way in other forums. The General Assembly, in its resolution 55/60 of 4 December 2000, subsequently requested the Commission to continue its consideration of the findings and recommendations embodied in the Vienna Declaration and the report of the Tenth Congress, and requested the Secretary-General, in consultation with Member States, to develop draft plans of action for consideration by the Commission at its tenth session;

(f) In addition to its involvement in the preparation of the workshop held during the Tenth Congress on crimes related to the computer network, the United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders has conducted a series of meetings and workshops to identify issues and set an agenda for subsequent activities. It has conducted a survey of Member States on issues involving computer-related crime, the results of which are forthcoming. It is also currently engaged in compiling and publishing the materials used by the United Nations and individual participants in the workshop held during the Tenth Congress. Its future plans centre around the development and dissemination of practical information for the investigation and prosecution of computer-related crime;

(g) The Commission, at its tenth session, will have before it a report of the Secretary-General on the draft plans of action for the Implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (E/CN.15/2001/5). The report of the Secretary-General also deals with high-technology and computer-related crime and includes a series of policy recommendations and specific measures that could be undertaken to enhance the capability, at domestic and international levels, to

prevent, investigate and prosecute such crime. Those recommendations and measures are based on the material dealt with in the present report;

(h) The General Assembly, in its resolution 55/63 of 4 December 2000, takes note of the value of efforts to combat the criminal misuse of information technologies. Such efforts would include the following: elimination of safe havens for offenders; law enforcement cooperation on international cases; exchange of information; training and equipping of personnel; protection of confidentiality; preservation of and quick access to data pertaining to criminal investigations; maintaining adequate mutual legal assistance regimes; raising public awareness of the problem; designing information systems to prevent crime and facilitate its investigation; and taking into account the need to protect individual freedoms and privacy while preserving the capacity of Governments to fight criminal misuse of information technologies. The Assembly also decided to maintain the question of the criminal misuse of information technologies on the agenda of its fifty-sixth session;

(i) By its resolution 55/25 of 15 November 2000, the General Assembly adopted the United Nations Convention against Transnational Organized Crime and two protocols thereto (resolution 55/25, annexes I-III). The Convention does not apply in cases where the offences involved are not serious crimes, where there is no involvement of an organized criminal group, or where there is no element of transnationality in any of the offences involved,[16] which would exclude some electronic offences. It would apply, however, where computer or telecommunications networks are used by offenders in support of more traditional forms of transnational organized crime. Article 29, paragraph 1 (h), specifically calls for the development of domestic measures and technical assistance to combat transnational organized crime committed through the use of computers, telecommunications networks or other forms of modern technology;

(j) Following the adoption of the Convention, a further workshop on the theme "The Challenge of Borderless Cybercrime" formed part of the Symposium on the Rule of Law in the Global Village—Issues of Sovereignty and Universality, conducted within the framework of the High-level Political Signing Conference for the United Nations Convention against Transnational Organized Crime and the Protocols Thereto, held in Palermo, Italy, from 12 to 15 December 2000. The topics dealt with included computer-related crime and other forms of transnational criminality for which controls rooted exclusively in domestic law were increasingly seen as inadequate. It was noted that such crime was expanding with the proliferation of the technologies on which it relied and as the commission of cross-border offences became easier. Legislation at the national level and a comprehensive international instrument were seen as important elements of a solution, but there were also concerns about the danger of developing regulations prematurely. The problem could also be addressed in part by prevention using such things as technical security, education and the development of ethical standards for the use of new technologies. The workshop also suggested that the range of cybercrimes could be broken down into the following basic categories: unauthorized access to computers or computer systems; destruction or alteration of data; interference with lawful use of computers or computer systems; theft of intangible property; and obtaining value by deception.

## C. The nature of computer-related and high-technology crime: a preliminary typology

14. The phenomenon of high-technology and computer-related crime requires the identification of entirely new offences and the modification of existing offences to ensure that they extend to misuses of the new technologies. New forms of harmful conduct have had to be examined with a view to determining whether the application of the criminal law is appropriate as a response, and whether the conduct involved should be made a crime at all. International consensus is emerging with respect to a substantial core of the most serious and harmful conduct, but some areas remain which are treated as crimes by some States but not all. The two major examples are intellectual property problems, such as the unauthorized copying of software or data, and the problem of what is described as offensive content.

15. Criminal exploitation of the new technologies has resulted in entirely new forms of crime. In other cases, more traditional forms of crime are committed in new ways that increase benefits or reduce risks to offenders. A third basic category of criminal activity consists in

the more general use of the technologies by offenders to organize, to communicate, and to shield their activities from surveillance. Other basic fields of classification proposed include classification according to whether the crimes are committed for economic or material gain for offenders or other motives, and whether the offences involve crimes committed against computer or communications systems or the use of those technologies to victimize others.

16. Basic types of high-technology and computer-related crime are described below.

### 1. Crimes committed against the technologies and their users

#### (a) Gaining unauthorized access to computers or computer systems

17. In most cases, gaining unauthorized access to computers or computer systems is treated as a crime out of concern for invasion of the privacy of legitimate users whose data may be accessed, and because unauthorized access often accompanies other offences or interferes with legitimate use of the system.

#### (b) Unauthorized use of computer systems

18. Unauthorized use of computer systems overlaps with unauthorized access, since systems must be used to gain such access. Once access is gained, however, systems are also used to commit other offences or to conceal the true identity of the offender. Unauthorized use is usually made a crime on the grounds that use of computer time or facilities represents a valuable commodity that is not paid for by the offenders and that is in some cases denied to legitimate, fee-paying users.

#### (c) Reading, copying or taking data without authorization

19. As with conventional theft, the harm of reading, copying or taking data without authorization consists in the loss of value to the victim and an improper gain of value on the part of the offender. In the case of data, however, those aspects are separate, as data can be copied without removing them. Such an act may also be criminalized as a form of invasion of privacy.

#### (d) Creating or propagating hostile programs

20. Computer viruses, worms and other programs interfere with system operations by consuming computing and storage capacity. In most cases, they also propagate themselves using e-mail or the transfer of contaminated diskettes, so that offenders quickly lose control over the scope of the damage caused once the program has been released. Many hostile programs also inflict actual damage on data, erasing or distorting files. The harm, which can be substantial, consists in the loss of system operations, the loss of valuable data and the cost of removing the programs and restoring system functions.

#### (e) Computer vandalism or sabotage

21. Damage can be done directly by offenders who have gained unauthorized access, either intentionally or unintentionally, while attempting to use the system or conceal the fact that access has been gained. Such offences are also committed in some cases by insiders who have authorized access to the system involved. The category includes denial-of-service attacks, in which the offender gains unauthorized access to a large number of networked computers and uses them to bombard the target system with random data, overloading the target and causing it to shut down. That may constitute simple vandalism or be used as a diversion to conceal other offences by disabling technical security mechanisms. Hostile programs such as viruses can also be used for specific acts of vandalism or sabotage, but can be distinguished from the direct actions of offenders because, once they propagate, they usually act with indiscriminate effect.

### 2. Conventional crimes committed using computer or communications technologies

#### (a) Offences involving offensive content

22. Offences involving offensive content consist in the use of computer systems to produce or disseminate images, text or other information that is subject to criminal sanctions. There are discrepancies between the types of content criminalized in different States. Most States currently criminalize the creation or distribution of child pornography, but there is less consensus with respect to material viewed as obscene, pornographic or blasphemous or as hate propaganda. Protecting constitutional principles of human rights including freedom of expression or speech, limits the extent to which many States can criminalize some forms of content.

#### (b) Internet-related abduction

23. Paedophile offenders have begun to use the Internet as a way to gain access to children without

revealing their true identities. Dialogues are started in electronic chat rooms, and once confidence is gained, the offender arranges a personal meeting and abducts the victim. A number of offenders have been arrested by law enforcement officers posing as children on the Internet. In some cases, offenders have induced victims to delete files recording their conversations in order to conceal evidence of the abduction.

**(c) Fraud**

24. The category of fraud includes most crimes in which funds are electronically misdirected or in which technology users are given false information in order to deprive them of funds or asset value. Such offences may be committed by insiders such as employees, or by outsiders using unauthorized access to private systems or placing false information on public systems. Fraud and other economic offences are expected to increase significantly as electronic commerce expands. An increasing problem in this area is the use of the technologies to manipulate financial markets.

**(d) Commercial or industrial espionage**

25. The increasing reliance of companies on computer systems to create and transfer information has also made them targets for industrial espionage. Such espionage can be conducted by gaining unauthorized access from outside, or by insiders using the technologies to assemble valuable information and send it to competitors without detection.

**(e) Intellectual property crimes**

26. The ability of new technologies to store, transmit and copy information makes unauthorized copying and use a major area of concern. Not all States treat such actions as a criminal matter, however. Some deal with them as a civil matter between the parties directly involved.

**(f) Gambling**

27. The development of infrastructure to support small-scale electronic commerce has also made Internet gambling possible. The criminal law is involved when web sites in jurisdictions where gambling is legal are used by gamblers in jurisdictions where it is a crime. Apart from moral considerations, gambling is often regulated to generate tax revenues and to ensure oversight to exclude organized crime and protect gamblers from unfair play. More recently, Internet gambling is also seen as a possible means of conducting money-laundering operations.

**(g) Money-laundering**

28. The ongoing increase in electronic commerce and other commercial activity using computer networks is expected to open up numerous opportunities for money-laundering. Generally, the technologies allow offenders to conceal their true identities and locations, to exploit jurisdictional differences by using foreign accounts or multiple jurisdictions, and to conceal the true nature of their transactions using technologies such as encryption. In some cases, other crimes such as gambling or fraud may also be involved.[17]

### 3. Use of the technologies to support other criminal activities

29. In general, modern computer and telecommunications networks and other such technologies offer criminal organizations the same advantages that they offer to legitimate businesses. The advantages include fast, reliable, low-cost global communications that in most cases are more secure from outside interception or surveillance than more traditional methods. The nature of networks and the higher speeds and volumes of data being transferred make it inherently more difficult for law enforcement agencies to intercept individual communications. Dedicated security products such as firewalls and encryption software shield criminal communications from interception or intrusion just as effectively as they protect legitimate communications. Network technologies may also in some cases support entirely new forms of criminal organization. The most commonly cited example is paedophile offenders, who can locate one another and share child pornography while remaining anonymous, and may cooperate in ways not covered by existing concepts or definitions of organized crime. More conventional criminal organizations may also find new opportunities to identify and cooperate with offenders from other regions or countries.

## D. Assessing the scope and costs of computer-related and high-technology crime

30. As computer and telecommunications networks have expanded in scope and sophistication, the number of people who use them and the degree of reliance

placed on them, have both increased dramatically. In a report to the Millennium Assembly of the United Nations, the Secretary-General noted that since its beginnings in the early 1990s, the Internet had reached 143 million users by 1998, and that 700 million were expected to be online by 2001. The value of electronic commerce, a more recent phenomenon, had reached a total of 2.6 billion United States dollars ($) by 1996, and was expected to top $300 billion by 2002.[18] There are few comprehensive statistics concerning high-technology or computer-related crime, but anecdotal evidence and such statistics as are available suggest that the extent of such crime is increasing with the growing number of potential offenders and victims online.[19] The range of criminal activities also appears to be expanding as technologies create new criminal opportunities and offenders find new ways to exploit them. Of particular concern currently is the rapid expansion of electronic commerce and its supporting infrastructure, which are likely to be accompanied by subsequent increases in economic computer-related crimes such as fraud, the manipulation of financial markets and money-laundering.

31. As the degree of reliance placed on networks increases, the potential harm from criminal offences also increases. Most industrialized countries, in which the reliance is greatest, now consider computer and telecommunications networks and their supporting infrastructure as potential targets for terrorism. Attacks on computer systems for strategic or political reasons are still rare, but criminal acts based on other motives regularly cause large-scale harm, in some cases out of all proportion to that actually intended by the perpetrators. Recent examples include the creation and propagation of the "Melissa" virus in March 1999, which caused over $10 million in direct damage in the United States alone, and the "I love you" virus in May 2000, estimated to have caused damage of between $7 billion and $10 billion and to have infected as many as 45 million computers worldwide. A further incident, a series of denial-of-service attacks, bombarded web sites with large volumes of meaningless data, shutting down 1,200 sites, including those of news organizations and electronic commerce sites, in less than two hours. Losses from some incidents, in particular involving viruses, are compounded in most cases when other offenders copy the virus, make changes to conceal its nature from users or filtering software, and then repropagate it.[20]

32. Actual losses are difficult to quantify, but include direct costs of repairing systems and software, the loss of access or services to users and consequent damage, the loss of valuable data and the loss of revenue from site operations. Such crimes also necessitate the development and maintenance of security and other preventive measures, an added cost factor. The overall increases in such crime and the spectacular nature of some of the offences involved also generate substantial but unpredictable political pressures for the enhancement of criminal law controls, more severe punishments and technical precautions on the part of the producers of software and hardware and of companies that provide network access to customers. A further hidden cost of such incidents is the fear of cybercrime, which may erode usage of the technologies or deter Governments and populations in developing countries from making the most effective use of them.

33. The search for reliable analysis of the nature and scope of the offences themselves is also difficult. Issues remain open with respect to whether some forms of conduct should be criminalized at all, and if so, how they should be defined and classified. Any classification system also depends in part on the technologies involved, which also raises definitional issues. Technologies such as computer networks, cable broadcasting systems and cellular and conventional telephone systems are rapidly becoming indistinguishable as the uses of computer networks expand and more traditional systems take up digital technologies. A current example of that is the so-called palm-pilot device, which combines aspects of cellular telephony, network broadcasting and access to computer networks. That will challenge researchers, policy analysts and legal drafters for the foreseeable future, and has led to calls for the use of technology-neutral concepts and language to ensure that gaps and inconsistencies are avoided.

34. The gathering of accurate statistics also presents problems even where the offences are clearly identified. Most experts believe that common forms of computer-related crime are significantly underreported because victims may not realize that they have been victimized, may not realize that the conduct involved is a crime, or may decide not to complain for reasons of embarrassment or corporate credibility. Further problems arise with the mass victimization caused by offences such as virus propagation, because the numbers of victims are simply too large to identify and count, and because such programs can continue creating new victims long after the

offenders have been caught and punished. A further factor complicating the gathering and comparison of national crime statistics will be the fact that transnational computer-related crimes are, by definition, committed in or have effects in at least two States, and, in some cases, in many States, risking multiple reporting or no reporting at all.

# III. Conclusions and recommendations: the development of global policies for the prevention and control of computer-related and high-technology crime

## A. The need to treat high-technology and computer-related crime as a distinct subject

35. The criminal activities considered in the present report are linked by underlying technologies and share many common characteristics. Some are new activities, created and defined by the technologies themselves, while others are more traditional forms of crime that have been substantially influenced by those technologies. Many fundamental policy issues, such as the striking of an appropriate balance between human rights and investigative powers and between domestic and international interests, are common to all forms of high-technology and computer-related crime. At a more practical level, the problems faced by investigators and prosecutors, such as locating and identifying offenders and the seizure, preservation, authentication and use of computer or electronic evidence in court, are substantially the same regardless of the nature of the offences themselves. It is therefore recommended that this area be treated as a distinct subject for the purposes of research and any future multilateral discussions. It should also be noted, however, that many emerging areas of concern, such as the dissemination of child pornography, fraud and other financial crimes, will also require the input of experts familiar with the offenders involved and their specific methods.

## B. The need to assist developing countries

36. Much of the policy debate about computer systems and computer-related crime thus far has taken place within and among countries with well-developed high-technology sectors. Those countries have substantial interests that may be adversely affected by computer-related crime. They have extensive public- and private-sector investments in the technologies, as well as populations that rely increasingly on the use of computer networks. The interests of developing countries are also at issue, however. New technologies represent a major opportunity to advance the social, economic and other interests of developing countries,[21] but they could also aggravate existing disparities if those countries are not able to take full advantage of that opportunity. In that regard, both computer-related crime and the efforts of developed countries and high-technology industries to combat such crime may become an obstacle to development if developing countries cannot participate effectively in discussions. Their input is needed to identify and articulate their interests fully, to identify needs for technical and other assistance at various stages of the process, to develop measures for crime prevention and control that are viable in all societies, and to ensure the full and effective implementation of those measures.

37. Near-universal implementation of effective crime control measures will be needed because the new technologies can be exploited by criminals with virtually none of the restrictions imposed on traditional offenders by national borders. Where traditional offenders are limited by factors such as geographical distance, customs controls and the need for physical access to their victims, electronic offenders can operate remotely and with effective impunity from or through any jurisdiction that lacks adequate legislation or the will or capability to enforce such legislation. Broad representation and effective participation will be essential to ensuring that policies and measures developed are viable for all countries and that all countries are willing and able to implement them effectively.

38. Ensuring effective participation will require the assistance of developed countries at several stages of the process. At the outset, input from developing countries will be needed to assess their interests in the technologies themselves and how those interests may be affected by computer-related crime and efforts to control it. That makes assistance at the earliest stages particularly important. Some countries have been actively engaged for some time, but, for many, the technologies are still unfamiliar and there has not been

much consideration of the technical, legal and policy issues that will arise. Even with assistance, the development of such expertise takes time. It is therefore important that such assistance begin as quickly as possible and that it continue long enough to ensure effective participation as long as discussions take place. Over the longer term, ongoing technical assistance will also be needed to maintain operational effectiveness. The fact that the technologies and the offences that depend on them continue to evolve will require a global effort to monitor new developments, develop effective responses, and disseminate these quickly enough to keep law enforcement agencies and prosecutors abreast, if not ahead, of offenders.

39. It is therefore recommended that immediate efforts be made to assess the technical assistance needs of developing countries that request it and to meet those needs as quickly as possible. The assessment should be done in the context of the electronic development strategies of those countries and the increasing global use of technologies for computer and telecommunications systems and crime prevention. It should also be done in consultation with, and where possible with the assistance of, the private-sector companies responsible for the technologies. Important elements of the assessment in global terms will include the identification of critical technologies and the setting of priorities.

## C. The need to consider international, national and private-sector measures

40. Experts universally recognize that the international character of modern computer and telecommunications technologies has led to new forms of transnational and multinational crime. The concept of cyberspace and the ease with which criminal acts in one geographic location can have effects in others makes the integration of national and international measures essential. Without such integration, countermeasures may be ineffective against crime, and may have unintended adverse consequences, such as deterring populations from using the new technologies, the erosion of human rights, or the creation of disparities in industrial competitiveness or development.

41. The prominent role played by industry in developing and maintaining the technologies also makes the integration of public- and private-sector measures important. Private-sector interests generally support effective crime control, but their motivations, which tend to be commercial rather than political, and their methods, which are technical rather than legal in nature, must both be reconciled, and where possible integrated, with the domestic and international efforts of Governments.

## D. The role of the United Nations

42. As part of the preparation for the Millennium Assembly of the United Nations, the Economic and Social Council was called upon to consider the role of information technology in the fields of development and international cooperation. It concluded that the development and spread of new information technologies was largely self-sustaining, but that the United Nations could assist the process in important ways.[22] These included assisting developing countries in keeping up with the new developments, in particular in regions or subject areas where market-driven developments were not likely to meet their needs, and assisting in the development of specific technologies that could bring social benefits, but that were not necessarily commercially viable. More generally, it concluded that the key role of the United Nations was in building consensus and partnerships among stakeholders in the process, including Governments, academic institutions and private-sector companies. The purpose of the consensus-building was to assemble the necessary expertise and resources to ensure that everyone will have access to, and the opportunity to benefit from, the new information technologies.

43. High-technology and computer-related crime represents a significant obstacle to both access to and the potential benefits from what the Council described as a knowledge-based global economy, and the task of consensus-building will be just as important in the area of crime control. There is already general agreement about the need for effective crime control measures among States with significant investments and reliance on the technologies, but that is only the beginning of the process. The development of specific measures will require the assessment and reconciliation of numerous economic, social, cultural and legal issues. The elaboration and implementation of many crime control measures will have to be supported by near-universal consensus and by adequate standards of technical

ability in virtually every country if they are to prove effective. The consensus should extend not only to countries and their Governments, but to large, multinational private-sector interests as well.

44. In the immediate future, it is important that accurate information about the nature and scope of the problem and the views of Member States about what should be done to address it should be assembled and disseminated to permit States to consider options and give direction to the United Nations as to how it should proceed. The intergovernmental organizations described in the present report, as well as some individual Governments, have already begun the process of sharing the legislative, prosecutorial, technical and law enforcement expertise that they have developed with other States, both in general and in the context of individual cases of major transnational crime. That should be expanded, both in scope and in the number of countries involved, but to do so, an accurate assessment of existing needs and of the resources available to respond to those needs will be required.

45. It is therefore recommended that the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat be directed to conduct a more detailed study of the problem, for submission to the Commission on Crime Prevention and Criminal Justice at its eleventh session. Possible subject matter for the study will be further discussed below, but it should include at least a survey of the basic needs of Member States, their willingness to assist through the provision of financial resources and technical expertise and their views as to how a global response to the problem should be developed and what form such a response should take.

46. It is further recommended that an open-ended intergovernmental group of experts be established to review the study and to prepare options and recommendations for further consideration and action by the Commission at its eleventh session. As noted above, the participation of a full range of countries is important at all stages of the process. It is important that this Group be as broadly based as possible, and in particular that it include representatives of developing countries. It is therefore recommended that such participation be supported by voluntary contributions from other States to the greatest extent possible.

47. It is further recommended that a global programme against high-technology and computer-related crime be established once the study is complete and the views of the group of experts have been obtained, and that interested States provide voluntary contributions to establish and support such a programme. The recommendation is discussed in detail in section F below.

48. Over the longer term, many experts are of the view that nothing less than a comprehensive, global legal instrument against high-technology and computer-related crime will be sufficient to establish the policies, powers, procedures and mechanisms for international cooperation needed to deal effectively with transnational computer-related crime. Views are mixed, however, as to how quickly such an instrument can be developed. As noted in section B above, there is a need to involve a wider range of countries early in the process. There are also major issues that would have to be resolved in drawing up such an instrument, for example, issues relating to national sovereignty, the application of judicial and other human rights safeguards and the role of private-sector interests in measures to promote computer security and crime control. Those issues must be taken into consideration in assessing options, both for the process of drawing up an instrument and for its possible form and content. In general, an instrument containing more extensive and binding provisions would be more effective, but would take longer to negotiate and prove more difficult and time-consuming for many States to implement. No conclusions can be drawn at the current stage, but it is recommended that the group of experts be asked to consider procedural and substantive options with respect to an international instrument and to develop recommendations as part of its report to the Commission at its eleventh session.

49. A further factor to be considered is the fact that high-technology and computer-related crime appears to be rapidly increasing in frequency, geographical scope and technical complexity, a process that seems likely to continue, in parallel to the rapid development and proliferation of new computer, network and telecommunications media. Such a prospect suggests that, while a global legal instrument may represent an important long-term response, effective measures in the more immediate future may also be needed. It is therefore recommended that the group of experts also be asked to develop further options for a global short-term strategy against high-technology and computer-related crime, focusing on areas such as general and case-specific legal and technical assistance; the setting

of technical standards for such things as the gathering, preservation, authentication and disclosure of electronic evidence; and the establishment of focal points or points of contact for requests for assistance. In that regard, work already under way in the organizations described in section II, subsection A, of the present report should be taken into consideration.

## E. Elements of a detailed study

50. In the current state of knowledge, the field of computer-related crime still raises many more questions than answers, and further study is needed to define the subject matter, determine the interests it affects and how it affects them, and identify policy options for the future. The study should involve at least the following:

(a) The views of States about the nature and scope of the problem and possible domestic and international responses to it should be surveyed;

(b) States representing a full range of industrial, legal, social and economic characteristics should be consulted;

(c) Both domestic and transnational offending should be considered. While many States will see some issues as purely domestic concerns, the nature of the technologies breaks down traditional distinctions between domestic and transnational crime. Researchers, policy makers and negotiators will frequently find it difficult to distinguish between domestic and transnational offending, which argues for an integrated approach, in particular at the preliminary stages of the process;

(d) The views and assistance of private-sector elements should be included, with the following aspects highlighted:

(i) The study should examine and consider the views and input of the industries responsible for the development and operation of relevant technologies, including computer hardware and software and computer and telecommunications networks;

(ii) The study should also examine the views of relevant non-governmental organizations. Organizations dedicated to causes such as freedom of expression and the protection of individual privacy have been critical of previous attempts to develop effective investigative powers and have generated political opposition to the efforts of the Group of 8 and the Council of Europe in that area;

(e) The study should consider matters outside crime control, such as sustainable development, the protection of privacy, freedom of expression and other basic rights, as well as commercial and other interests. Those fundamental interests and others are closely linked to technological development, and they are likely to be affected both by increases in computer-related crime and by efforts on the part of Governments and the international community to prevent and control it;

(f) The study should assess the extent of offending, both generally and in the context of statistically relevant factors, such as specific forms of criminality, geography and other social or economic conditions. The difficulties in the gathering and analysis of accurate statistical information have already been examined. As a common understanding of the technical scope of the field and of the typology of offences within it is developed, however, more reliable data should become available. Further, with increasing popular awareness of the types of conduct involved and of the fact that they are, or should be, treated as crimes, the underreporting of such crimes should be reduced. The gathering of preliminary data is also important to building political support for effective domestic and international action against such crimes;

(g) The study should consider the definition and classification of high-technology and computer-related crime. The classification used in the present report is consistent with other work in the field and may serve as the basis for further consideration, but a more thorough and rigorous examination is needed to produce a framework that would enjoy consensus among Governments, interest groups and experts in the field. That is an early priority, as definitions and classifications are needed to bring consistency to the gathering of statistics and research on which further policy development will be based. A viable typology will require the consideration of factors in several major areas, including the following:

(i) *The relevant technologies.* The field of high-technology and computer-related crime is driven to a large degree by the nature and scope

of the technologies involved, which are rapidly evolving and converging. For that reason, the generic phrase "high-technology and computer-related crime" has been used in the present report and in other work on the subject. Research is needed to survey the full range of technologies involved and propose options for a general classification that would include all of them. More detailed consideration of specific technological developments and the types of criminal activity that depend on them is also needed. Given the rapid evolution of the technologies, consideration should be given not only to current technologies, but also to potential developments;

(iii) *The nature and motivation of offenders.* Offenders who commit crimes created by the new technologies represent a relatively new area of study. The motivations of more traditional offenders such as paedophiles, perpetrators of fraud or international drug-traffickers are well established. The adaptation of such offenders to the new technologies requires examination from the perspective of computer-related crime;

(iii) *Geographical aspects of offences.* The geographical aspects will differ from those of more conventional offences in at least two major respects. The first is that two major "geographies" are superimposed on one another. The actual physical location of offenders and its specific situational factors, such as the social, economic or cultural conditions, will be important. Also important, however, will be the electronic geography—the much-cited cyberspace considerations—that affect offending patterns.

## F. Options and specific recommendations for further work on high-technology and computer-related crime

### 1. A possible international instrument against high-technology and computer-related crime

51. Once a study has been completed, it is recommended that the group of experts advise the Commission on the issues and options relating to whether it is feasible and desirable to draft up an international instrument against high-technology and computer-related crime. These issues will include the following:

(a) The question whether an instrument, if any, should be normative or legally binding. An instrument could seek to establish mandatory requirements for such things as criminal offences, investigative powers and mechanisms for international cooperation, or it could merely provide guidelines to assist States in developing effective measures and to promote international standardization of laws and procedures. A compromise between those two options, illustrated by the United Nations Convention against Transnational Organized Crime, would involve an instrument in which some provisions created binding obligations, while others contained more general guidelines or left implementation to the discretion of States parties;

(b) What relationship, if any, a further instrument would have to the United Nations Convention against Transnational Organized Crime. Generally, the Convention might serve as a precedent for some provisions, while others may not be appropriate for the subject matter of high-technology and computer-related crime. The limitation of the scope of the Convention to the activities of "organized criminal groups", for example, would exclude a significant proportion of high-technology and computer-related offences, because such offences are committed by individuals or groups that are not within the terms of the definition set forth in the Convention.[23] The possibility of drawing up a further protocol to the Convention for offences of that type therefore seems to be precluded;[24]

(c) How an instrument, once concluded, could be kept up to date. As noted in the introduction to the present report, the field under consideration is characterized by dynamic evolution of the technologies and related criminal activities, and it will be important to ensure that any framework for integrating domestic and international measures can keep pace with the changes. Options may include the delegation of some legislative powers to a body of experts representing the States parties and established for that purpose, the use of Protocols to deal with new specific issues as they arise, the use of relatively broad, technology-neutral drafting or other measures;

(d) How to incorporate related interests such as privacy, freedom of expression and other human rights and commercial interests into an international instru-

ment. While the subject matter requires that the focus of an instrument be on the control and prevention of crime, those other interests must also be considered, both in the process of drawing up an instrument and in its substantive content.

### 2. A short-term strategy for dealing with high-technology and computer-related crime

52. As noted above, high-technology and computer-related crime is a pressing problem that may require a concerted international response in both the short and the long term. It is recommended that the study review possible measures that could be taken in the immediate future, and that the group of experts develop recommendations regarding a short-term strategy for consideration by the Commission at its eleventh session. The elements of such a strategy may include the following:

(a) The compilation and dissemination to all Member States of information about high-technology and computer-related crime and possible responses to it, in order to inform, as quickly as possible, those not already engaged in discussions. The proposed study would form a key element of information packages, but other materials are also available, including the following:

(i) The *United Nations Manual on the Prevention and Control of Computer-related Crime*, published in 1994, could be updated and reissued;

(ii) The proceedings of and material from the workshop on crimes related to the computer network, held at the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, could be published and disseminated;[25]

(iii) Material from other intergovernmental organizations, in particular the Council of Europe, Interpol and the Lyon Group established by the Group of 8, could be disseminated more widely;

(iv) Workshops, seminars or briefing sessions could be held with officials of interested States, with the possible participation of representatives from the private sector;

(b) Material relating to the training of investigators and prosecutors could be made more available. The United Nations has not produced such material, but a number of Member States have done so for use in training their own officials, and in some cases for use in technical assistance projects involving other States;

(c) Direct technical assistance will be needed in some States. Such assistance may include training for judges, prosecutors, investigators and technical or forensic experts, many of whom would then be in a position to train others. In some cases, such projects may be integrated with more general development projects aimed at assisting States in acquiring and using new technologies for development. As noted above, it will be important that crime prevention and control become established as an integral part of such projects if the adverse effects of computer-related crime on development are to be avoided;

(d) The establishment of focal points or points of contact in each Member State should be encouraged. That would include points of contact for immediate assistance in computer-related crime investigations,[26] but also more general contacts for the purpose of gathering information about developments in each State and for receiving and disseminating information from the international community;

(e) A substantial commitment of financial and technical resources will be needed. Such assistance may take the form of voluntary contributions to the United Nations Crime Prevention and Criminal Justice Fund or the furnishing of expertise or materials to support a global programme against high-technology and computer-related crime or specific United Nations projects. The universality of the technologies and their vulnerability to exploitation by offenders anywhere provide incentives for States with financial or technical resources to assist other States. The industries that develop and operate computer and telecommunications networks also have financial and technical resources that can be tapped, as well as incentives to contribute, because many forms of computer-related crime threaten the commercial viability of their products.

### 3. The establishment of a global programme against high-technology and computer-related crime

53. The available evidence indicates that there is a considerable amount of activity in research and in the

development of policy, legal and technical measures, but little overall coordination of such activities. The extent of activity varies from country to country. It involves a number of intergovernmental and non-governmental organizations as well as several agencies and departments of the United Nations, and is a major concern for commercial companies and non-governmental interest groups. Attention, as well as the allocation of resources, tends to focus on specific issues of concern to the Governments or organizations directly involved, raising the potential for gaps or inconsistencies in research. The global nature of the United Nations places it in a unique position to examine and coordinate activities in the area under consideration. It is recommended that, once the needs and views of Member States have been surveyed, a global programme against high-technology and computer-related crime be established. It is also recommended that concerned States provide voluntary contributions to set up and operate such a global programme.

54. Possible terms of reference for the global programme should be considered by the Commission at its eleventh session, once the results of the study and the views of the group of experts have been obtained. The mandate of the global programme may include the activities set out in paragraph 52 above, as well as the following:

(a) The identification of Member States requesting assistance and the analysis of their specific needs;

(b) The development of materials to assist policy makers, legislators, law enforcement agencies, prosecutors and other relevant officials in dealing with domestic and transnational cases;

(c) The assembly, compilation and dissemination of materials prepared by others;

(d) The delivery of legal, technical and other assistance to States that request it, subject to the availability of sufficient resources;

(e) The development of an inventory of technical expertise available from individuals and agencies willing to provide assistance to requesting States;

(f) Coordination of activities with other agencies and departments of the United Nations, in particular in the areas of human rights and development, with a view to including the subject of computer-related crime in other programmes, where appropriate, and ensuring that input from other programmes is incorporated into the development of strategies for crime prevention and control;

(g) Coordination of activities with other intergovernmental organizations and individual Governments and agencies active in the area of high-technology and computer-related crime;

(h) Coordination of activities with non-governmental interest groups and private-sector companies and the organization of monetary resources and technical expertise from companies as part of a global strategy against high-technology and computer-related crime.

### 4. A preliminary inventory of substantive issues for consideration

55. As elements of both short- and long-term strategies, many of the same substantive issues will have to be addressed. On the basis of previous deliberations in the United Nations and other forums referred to in the present report, the following substantive issues require consideration:

(a) The identification of harmful conduct involving new technologies and the creation of new offences or the amendment of existing offences to criminalize it;

(b) The development of principles for dealing with the transnational tracing of communications, including powers to obtain, preserve and disclose traffic data;[27]

(c) The development of principles governing intentional and inadvertent cross-border electronic searches;

(d) The development of common principles for dealing with the interception of communications transmitted on computer networks and similar media;

(e) The assessment of the confidentiality or privacy interests inherent in various forms of data storage and transmission in order to develop procedural controls on seizure and interception in line with those interests. Most States place few, if any, restrictions on law enforcement access to open web sites or webcast communications, for example, but would apply restrictions to the seizure of data from more private sources;

(f) The development of common standards or practices for the identification of individual users of computer network or telecommunications services, balanced against the need for individual privacy and anonymity;

(g) The development of common principles for adjusting forensic practices and legal rules of evidence to ensure that computer evidence can be preserved, authenticated and used in criminal proceedings;

(h) The development of common principles for the protection of basic rights, both in establishing international policies and measures against high-technology and computer-related crime, and in implementing such measures in specific cases;

(i) The development of common principles governing the confidentiality and integrity of data and the balancing or reconciliation of those principles with the need for effective crime control measures;

(j) The development and funding of technical assistance programmes and materials for States that request such assistance. Such programmes and materials will be needed both to assist States in participating effectively in the development of global policies, and to ensure that domestic authorities are adequately trained and equipped to be able to respond effectively and expeditiously to requests for assistance in the investigation of transnational computer-related crimes;

(k) The gathering, analysis and sharing of information about new technological developments, offenders and their techniques and about effective methods of preventing, investigating and prosecuting offences;

(l) The training, equipping and resourcing of law enforcement experts to ensure the ability to investigate and prosecute effectively in domestic cases, and to be able to cooperate effectively with other States in transnational cases;

(m) The need to assess and clarify the role of the private sector and its relationship with Governments, both at the domestic and international levels. Specific elements or aspects of the relationship that will require consideration include the following:

(i) The need to strike a balance between effective crime control measures and the technical and commercial constraints on their development and implementation. Crime control should be considered by industries at the design stage of new technologies, but law enforcement must recognize that some measures may not be technically feasible or may represent changes that would render the technologies unproductive or uncompetitive. Crime control demands should not affect the basic viability or competitiveness of new technologies, but costs of crime and crime prevention must become part of the overall cost-benefit assessments of both Governments and industries, and costs should be allocated, where appropriate, against the profits generated by the technologies that support the crimes;

(ii) The need for Governments and industries to cooperate effectively to maximize the benefits and minimize the costs involved. That includes identifying and developing effective security and other crime-prevention techniques, their incorporation into new technologies at the earliest possible stage of development and the training and preparation of law enforcement and prosecutorial agencies with respect to new technologies before potential offenders gain access to them. The technological advancement of relevant industries makes them important for, if not essential to, the success of technical assistance programmes, and the commercial interests of the industries themselves will in many cases justify participation in such programmes;

(iii) The need to develop systems and conduct operations in ways that support effective criminal investigation and crime prevention, having regard also to the need to protect the privacy and other rights of users of the technologies. Examples include the operation of systems that can retain evidence of communications for reasonable periods, should it be needed for an investigation, and the need to be able to identify customers;

(iv) The need to develop a global assessment of the potential role of the private sector in crime control. That is a complex issue already facing many service providers, who share the public interest in effective crime control, but recognize the dangers and difficulties that arise if they become a substitute or replacement for State law enforcement agencies. Industries face conflicting pressures to incorporate security measures into

new technologies that may not be commercially viable, or that affect the fundamental interests of their customers.[28] They also face government pressures to control or exclude content seen as illegal or inappropriate, or to assist State law enforcement agencies in the conduct of criminal investigations. Those pressures raise complex ethical, legal and policy issues that should be explored, both at the national and global levels, with a view to achieving as much global consistency as possible.

*Notes*

[1] See "Building digital bridges" in the report of the Secretary-General to the Millennium Assembly of the United Nations (A/54/2000, paras. 150-167). See also the report of the Secretary-General on development and international cooperation in the twenty-first century: the role of information technology in the context of a knowledge-based global economy (E/2000/52, sects. III-V).

[2] European Committee on Crime Problems, Committee of Experts on Crime in Cyberspace, "Draft Convention on Cyber-crime" (PC-CY (2000), draft No. 25, rev. 5), available online at http://conventions.coe.int/treaty/en/projets/cybercrime25.htm.

[3] Conclusions from the studies are set forth in Council of Europe recommendations R (89) 9 and R (95) 13. The Committee of Experts was established by the Council of Europe Committee of Ministers at the 583rd meeting of the Ministers' Deputies, on 4 February 1997.

[4] See the annex to the communiqué of the Meeting of Justice and Interior Ministers of the Group of 8, held in Washington, D.C., on 10 December 1997.

[5] See the communiqué of the Ministerial Conference of the Group of 8 Countries on Combating Transnational Organized Crime, held in Moscow from 19 to 20 October 1999, para. 17 and annex 1.

[6] Meetings were held in Paris from 15 to 17 May 2000 and in Berlin from 24 to 26 October 2000. A further meeting is planned for Tokyo in May 2001.

[7] In paragraph 14 of resolution 1999/23, the Council requests the Secretary-General to conduct a study on effective measures that could be taken at the national and international levels to prevent and control computer-related crime, including an examination of the desirability of preparing manuals, guidelines and recommendations, and to report on the conclusions of the study to the Commission on Crime Prevention and Criminal Justice at its tenth session.

[8] See General Assembly resolutions 45/109 and 45/121 of 14 December 1990 and *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August-7 September 1990: report prepared by the Secretariat* (United Nations publication, Sales No. E.91.IV.2), chap. I, sect. C, p. 140.

[9] See A/CONF.169/16/Rev.1, paras. 370-385.

[10] See General Assembly resolution 55/25 of 15 November 2000, annex I, article 18, paras. 8 and 18.

[11] See *Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders ...*, chap. I, sect. C.

[12] *International Review of Criminal Policy*, Nos. 43 and 44 (United Nations publication, Sales No. E.94.IV.5).

[13] See General Assembly resolutions 52/91 of 12 December 1997 and 53/110 of 9 December 1998. See also A/CONF.187/10 and *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10-17 April 2000: report prepared by the Secretariat* (United Nations publication, Sales No. E.00.IV.8), paras. 161-174.

[14] See A/CONF.187/L.10, para. 14.

[15] See *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders ...*, chap. I.

[16] See articles 2 (use of terms) and 3 (scope of application) of the Convention (resolution 55/25, annex I).

[17] Such crimes were recently examined by the Financial Action Task Force on Money Laundering (FATF) of the Organisation for Economic Cooperation and Development (OECD). See the FATF "Report on money laundering typologies for 2000-2001" (Paris, OECD, February 2001), paras. 5-18.

[18] A/54/2000, para. 152.

[19] For example, the Director of the United States Federal Bureau of Investigation (FBI), in a statement on cybercrime to the United States Senate Judiciary Committee on 28 March 2000, reported that, from 1998 to 1999, the FBI caseload doubled from 547 to 1,154 cases, although it is not clear whether that was due to increases in offending or increases in reporting, or both. See also P. Graboski, "Computer crime: a criminological overview", *Forum on Crime and Society*, vol. 1 (2001), p. 40.

[20] Creation of the "Melissa" virus was admitted by a 31-year-old programmer from the United States. A 15-year-

old Canadian boy has pleaded guilty to 56 criminal charges in connection with the denial of service attacks. No charges have been laid in the case of the "I love you" virus, but it is believed to have originated in the Philippines. A wide range of damage estimates was circulated for each of those incidents, and the true costs will probably never be established. The figures are cited as evidence of the general scale of the losses and of the level of political concern about the threat posed by offences on such a scale.

[21] See E/2000/52, sects. III-V.

[22] See E/2000/52, paras. 79-99.

[23] See articles 2 and 3 of the Convention (resolution 55/25, annex I).

[24] The three existing protocols all incorporate the provisions relating to the scope and application of the Convention, mutatus mutandis. Many of the provisions of the Convention, having been drafted on the basis that they would apply only to cases involving organized criminal groups, would be difficult to apply to cases involving computer-related crimes committed by individuals.

[25] The United Nations Asian and Far East Institute for the Prevention of Crime and the Treatment of Offenders, which organized the workshop, is currently preparing those materials for publication.

[26] The process has already been started by the Group of 8 and followed up by Interpol.

[27] The term "traffic data" generally refers to the data stored by service providers that records the source and destination of an electronic communication. That may include both the ultimate source and destination and interim sources or destinations within a computer network. A related concept is "subscriber" or "user" data, which is used by service providers to identify individual customers.

[28] One recent example was an injunction by a French court requiring the Internet company Yahoo! Inc. to develop technical methods to block the access of its subscribers in France to auction web sites containing Nazi memorabilia. The sale of such items is prohibited in France, but legal in the jurisdictions in which the sites themselves are located. Providers are generally willing to take such action—to the extent that it is technically feasible—but only when a competent court or other public authority has determined that the content itself is illegal.

United Nations E/CN.15/2001/5

# Economic and Social Council

Distr.: General
27 March 2001

Original: English

**Commission on Crime Prevention and Criminal Justice**
Tenth session
Vienna, 8-17 May 2001
Item 5 of the provisional agenda*
**Follow-up to the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders**

## Draft Plans of Action for the implementation during the period 2001-2005 of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century

### Report of the Secretary-General

*Summary*

The present draft Plans of Action for the Implementation of the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (General Assembly resolution 55/59, annex) present an overview of the commitments and planned activities of Member States and the United Nations system in the area of crime prevention and criminal justice for the period 2001-2005. The document is being submitted in response to General Assembly resolutions 55/59 and 55/60 of 4 December 2000, in which the Assembly endorsed the Vienna Declaration and requested the Commission on Crime Prevention and Criminal Justice and the Secretary-General to take measures to implement it, respectively.

The primary focus of the draft Plans of Action is on the commitment of Member States, individually and collectively, to take effective measures against the crime problems set out in the Vienna Declaration and elsewhere. Each section has been divided into national actions and international actions, with emphasis on the former. Generally, matters set out as international actions involve commitments for the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention or other United Nations entities, while those described as national actions are matters for Member States. Commitments for United Nations entities that

* E/CN.7/2001/1.

V.01-82215 (E) 200401 230401

go beyond the core functions financed through regular budgets are contingent on the availability of adequate resources through voluntary contributions.

The draft Plans of Action call for action in the following major areas: (a) transnational organized crime; (b) corruption; (c) trafficking in persons and smuggling of migrants; (d) trafficking in firearms; (e) money-laundering; (f) terrorism; (g) crime prevention; (h) victims, witnesses and offenders; and (i) criminal misuse of information technologies.

# Contents


| *Chapter* | | *Paragraphs* | *Page* |
|---|---|---|---|
| I. | Background | 1–3 | 4 |
| II. | Summary of the draft Plans of Action | 4–6 | 4 |
| III. | Action against transnational organized crime | 7–19 | 6 |
| IV. | Action against corruption | 20–34 | 8 |
| V. | Action against trafficking in persons and smuggling of migrants | 35–52 | 12 |
| VI. | Action against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition | 53–61 | 15 |
| VII. | Action against money-laundering | 62–66 | 18 |
| VIII. | Action against terrorism | 67–72 | 19 |
| IX. | Action on crime prevention | 73–78 | 20 |
| X. | Action on witnesses and victims of crime | 79–85 | 22 |
| XI. | Action on the treatment of offenders | 86–91 | 23 |
| XII. | Action against the criminal misuse of information technologies | 92–101 | 25 |

# I. Background

1. On 17 April 2000, the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders[1] adopted the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century (General Assembly resolution 55/59, annex). The Vienna Declaration contains a series of commitments to respond to specific problems of crime control and crime prevention and, in paragraph 29, invites the Commission for Crime Prevention and Criminal Justice to design specific measures for the implementation of and follow-up to those commitments. (The Vienna Declaration makes specific provision for implementation time-lines or deadlines, but imposes no overall deadline. The general time-frame envisaged in the present document is 2001-2005. Where more specific references to timing appear in the Declaration or other documents providing legislative authority, these have been set out in the text.)

2. In its resolution 55/60 of 4 December 2000, the General Assembly requested the Commission to continue its consideration of the findings and recommendations embodied in the Vienna Declaration; and requested the Secretary-General to prepare, in consultation with Member States, draft plans of action to include specific measures for the implementation of and follow-up to the commitments undertaken in the Declaration.

3. The present document is submitted in response to the requests contained in the Declaration and resolution 55/60. It embodies a series of specific plans of action on the subject matter referred to in the Declaration, consolidated into a single format for convenient reference. A preliminary draft of the text was discussed at the Inter-sessional Meeting of the Commission on 16 February 2001 and comments arising from that meeting have been incorporated into the text. Comments calling for more extensive changes will be circulated for discussion at the tenth session of the Commission.

# II. Summary of the draft Plans of Action

4. The draft Plans of Action set out the commitments and planned activities of Member States and the United Nations in the area of crime prevention and criminal justice for the period 2001-2005. The basis of the text is the commitments contained in the Vienna Declaration, but, where appropriate and relevant, mandates and projects not mentioned in the Declaration have also been incorporated. (Paragraph numbers in parentheses refer to the text of the Declaration.)

5. The primary focus of the Plans of Action is on the commitment of Member States, individually and collectively, to take effective measures against the crime problems described in the Declaration and elsewhere. Each section has been divided into national actions and international actions, with emphasis on the former. Generally, activities listed under "national actions" are for Member States individually, although some may apply on a regional or collective basis, while activities listed as "international actions" involve commitments for components of the Office for Drug Control and Crime Prevention of the Secretariat. Where possible, specific components such as the Centre for International Crime Prevention are identified. Where more than one component is involved, a general reference to the Office is made. Commitments for United Nations entities that go beyond the core functions financed through regular budgets are identified as contingent on the availability of adequate resources through voluntary contributions.

6. Action is called for in the following major areas:

(a) *Transnational organized crime*. States are urged to make every effort to sign and ratify the United Nations Convention against Transnational Organized Crime ("the Convention") and the protocols thereto (General Assembly resolution 55/25, annexes I-III) by the end of 2002 and to implement them as quickly as possible. The Centre for International Crime Prevention is requested to support that process before and after ratification and to support the Conference of States Parties to the Convention. States are also called upon to provide increased resources to permit the work to be carried out;

(b) *Corruption*. The major political commitment of States is to take enhanced international action against corruption, through existing instruments, a new binding global legal instrument against corruption and other measures. The Plan of Action against corruption incorporates mandates embodied both in the Vienna Declaration and recent resolutions of the General Assembly and sets out a course of action for States and the Centre leading to the negotiation, adoption, ratification and implementation of a global instrument. More general measures against corruption are also listed;

(c) *Trafficking in persons*. The plan for action against trafficking in persons calls for the ratification and implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the "Trafficking in Persons Protocol"), as quickly as possible. It also commits Member States to take further action against trafficking and more immediate steps to address those problems in the context of the global programme against trafficking in persons and calls upon them to provide voluntary contributions to support the Programme. The political commitment is to achieve a significant reduction in criminal offences relating to trafficking by 2005;

(d) *Smuggling of migrants*. The major actions called for in this area involve the signature, ratification and implementation of the Convention and its Protocol against the Smuggling of Migrants by Land, Sea and Air (the "Migrants Protocol"). To some extent, there is overlap between the commitments for action against trafficking in persons and the smuggling of migrants and the two are dealt with together in paragraph 14 of the Vienna Declaration. In consultations, some States indicated a preference for treating the two as distinct topics and for greater clarity that approach has been adopted in the draft Plans of Action;

(e) *Trafficking in firearms*. The major actions called for in this section also relate to the signature, ratification and implementation of the Convention and its Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition (the "Firearms Protocol"). At the time of preliminary consultations on the draft Plans of Action, the text of the Protocol had not been finalized and the consultations were held on the basis of an interim text based on elements of the Protocol that had been finalized or had at that point enjoyed substantial support in the negotiations. The Protocol was finalized by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime at the conclusion of its twelfth session, on 2 March 2001, and the present text of the draft Plans of Action is based on that text.[2] The political commitment is to achieve a significant reduction in illicit manufacturing and trafficking by 2005;

(f) *Money-laundering*. Mandates in this area derive from two major instruments at present: the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[3] and the United Nations Convention against Transnational Organized Crime of 2000. The proposed convention against corruption is also expected to incorporate elements dealing with the tracing and recovery of proceeds. Activities in this area are expected to involve both the global programme against money-laundering and the Centre for International Crime Prevention and are generally attributed to the Office for Drug Control and Crime Prevention;

(g) *Terrorism*. The major political commitment of States in this area is to take measures against criminal activities that further terrorism. The actions called for deal with links between terrorism and crime or areas where the two overlap and involve the gathering, analysis and dissemination of information and the promotion of existing international instruments against terrorism.

(h) *Crime prevention*. The major commitment is to develop crime prevention strategies at both the national and the international levels. The actions in this area involve the sharing of best practices and the promotion of ideas and values that support proactive measures. Elements of crime prevention are also incorporated into other elements of the Plans of Action.

(i) *Victims, witnesses and offenders*. These sections also focus on the dissemination of information and promotion of values. Member States are committed to review their policies for dealing with victims by 2002;

(j) *Criminal misuse of information technologies*. This section deals with two mandates, from the General Assembly and the Tenth Congress. The major

commitment is to develop action-oriented policy recommendations, as called for by the Assembly. Also referred to are other key interests that will play a role in developing crime control policy in this area, in particular human rights and privacy interests, commercial interests and the Secretary-General's commitment to bridge the digital divide between developed and developing countries.[4] The subject of computer-related crime is also the subject of a separate report before the Commission at its tenth session (E/CN.15/2001/4).

# III. Action against transnational organized crime

## A. Commitments

7. The Vienna Declaration contains the following commitments:

(a) To complete the negotiation of the United Nations Convention against Transnational Organized Crime and the protocols thereto (para. 5);[5]

(b) To assist States in capacity-building with a view to facilitating the implementation of the Convention and the protocols thereto (para. 6);

(c) To strengthen the capability of the Centre for International Crime Prevention to assist States in building such capacity (para. 7 (d));

(d) Consistent with the Convention:

(i) To incorporate crime prevention into national strategies;

(ii) To enhance donor cooperation in crime prevention;

(iii) To intensify cooperation on Convention matters (para. 7).

## B. Background

8. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, established by the General Assembly in its resolution 53/111 of 9 December 1998, has completed the Convention and the protocols dealing with trafficking in persons, smuggling of migrants and the illicit manufacturing of and trafficking in firearms, opening the way for the signature, ratification and implementation of those instruments by Member States.[5] The Ad Hoc Committee was requested by the Assembly in its resolution 54/127 of 17 December 1999 to consider whether to develop an international instrument on the illicit manufacturing of and trafficking in explosives by criminals.[6] Complete implementation of those instruments will be a complex process for most countries, involving the adoption of legislative, administrative and other measures, both domestically and in cooperation with other countries.

9. Technical assistance on matters of legislative and administrative reforms, operating systems and equipment will be required to facilitate the ratification and implementation process in many States. The Conference of States Parties to the Convention and the Centre for International Crime Prevention are expected to play a key role in coordinating the efforts of States and in sharing information on the status of projects, problems encountered and reforms to the instruments.

## C. Objectives

*Objective 1.* To achieve the signature, ratification and entry into force of the Convention and the protocols thereto as soon as possible.

### 1. National actions

10. States that have not signed the instruments should do so as soon as possible, while those which have signed should make every effort to ratify them before the end of 2002. Ratification signifies an obligation to implement the provisions of the instruments. It also entails a broad political commitment to take effective measures to prevent, investigate and prosecute transnational organized crime and to cooperate with other States in doing so. States will:

(a) Commence development of the domestic legislative, administrative and other measures against transnational organized crime needed to implement the Convention and the protocols thereto in an effective manner;

(b) Build the capacity needed to provide the forms of assistance and cooperation to other States parties set forth in the instruments;

(c) Support the efforts of the Centre for International Crime Prevention to promote ratification through regional seminars and provide pre- and post-ratification assistance to signatory States by providing financial contributions, expertise and/or other forms of assistance;

(d) Significantly increase their overall level of extrabudgetary contributions and strengthen and broaden the Centre's donor base in order to assure the availability of adequate material and technical resources for projects in support of the Convention and the protocols thereto, as well as other projects and programmes.

### 2. International actions

11. Collectively, States bring each instrument into force by ratification: each instrument takes effect initially on the ninetieth day after the fortieth State has ratified and for each additional State it takes effect on the thirtieth day after that State has ratified it. Efforts on the part of States to assist one another will play a significant role in bringing each instrument into force as quickly as possible.

12. Collectively, States will promote increased international cooperation and coordination in devising ways and means of preventing and combating transnational organized crime. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of preventing and combating transnational organized crime through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

13. The Centre for International Crime Prevention will actively promote signature and ratification of the Convention and the protocols thereto by:

(a) Organizing high-level seminars to increase awareness of the instruments on the part of States, intergovernmental and non-governmental organizations and other key groups or individuals;

(b) Providing expertise and assistance to States, upon request and subject to the availability of resources, both before and after they ratify the instruments.

### 3. Expected impact

14. The direct impact of ratification and implementation will be the adoption of domestic measures against organized crime and the establishment of an international framework for cooperation against transnational organized crime.

15. The indirect impact will be a general increase in the effectiveness of measures against transnational organized crime, with a reduction in criminal activity and the alleviation of some of its effects on both countries and individual victims. Effective measures against transnational organized crime in general are also expected to provide benefits in the fight against domestic organized crime in many States and against criminal activities in specific problem areas, such as money-laundering, trafficking in narcotics and firearms, trafficking in persons and smuggling of migrants.

*Objective 2.* To achieve progressive implementation of the Convention and the protocols thereto.

### 1. National actions

16. Each State that ratifies an instrument will adopt a series of legislative, administrative or other measures needed to give effect to its provisions, where such measures are not already in place.

17. The objective of each State will be to set effective priorities for implementation and to proceed as expeditiously as possible until all provisions of all of the instruments are in full force and operation. Specific actions will include:

(a) The development of legislation creating or strengthening offences, investigative powers, criminal procedures and other matters;

(b) Capacity-building through the strengthening of crime prevention and criminal justice systems, including the establishment or expansion of agencies responsible for the prevention, detection and control of transnational organized crime;

(c) The establishment or improvement of training programmes for judges, prosecutors, law enforcement personnel and other individuals or

agencies responsible for the prevention, detection and control of transnational organized crime;

(d) The development and sharing of information and analytical expertise on methods and activities and general trends in organized crime and on the identities, whereabouts and activities of specific individuals or groups suspected of involvement in organized crime;

(e) The general promotion of effective crime control strategies.

### 2. International actions

18. The Centre for International Crime Prevention will:

(a) Assist States in the development of legislation and regulations and provide other expertise or technical cooperation to facilitate the implementation of the Convention and the protocols thereto, on request and subject to the availability of resources;

(b) Assist States in the establishment or intensification of bilateral and multilateral cooperation in the areas covered by the Convention, in particular those involving the use of modern communication technologies, on request and subject to the availability of resources;

(c) Carry out the regular collection and analysis of data on transnational organized crime, in consultation with interested States;[7]

(d) Design and set up a database to permit a more comprehensive in-depth analysis of patterns, trends and geographical mapping of the strategies and activities carried out by organized crime groups, including best practices to combat transnational organized crime, in consultation with interested States;

(e) Develop a database of relevant national legislation;

(f) Support the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime in the development of rules and procedures for the Conference of the Parties to the Convention;

(g) Provide secretariat and general support to the Conference of the Parties to the Convention;[8]

(h) Prepare and service a world conference or congress to review implementation of the Convention and adopt recommendations for further action;

(i) Make increasing use of the Office for Drug Control and Crime Prevention field office network to support these activities.

### 3. Expected impact

19. The Convention establishes an international framework for cooperation against transnational organized crime, supplemented by additional measures against specific forms of transnational organized crime in each protocol. The progressive implementation of the instruments will result in an international framework and individual measures that increase in their scope, depth and effectiveness as more States become parties to the instruments, as implementation measures come into full force and operation and as States gain experience and expertise in using the new measures against organized criminal groups and their activities.

## IV. Action against corruption

### A. Commitments

20. The Vienna Declaration and relevant resolutions of the General Assembly contain the following commitments:

(a) To take enhanced international action against corruption (para. 16);[9]

(b) To conduct a thorough review and analysis of all existing international instruments against corruption (para. 16);[10]

(c) To develop, adopt, ratify and implement an effective international legal instrument against corruption;

(d) To consider supporting the global programme against corruption (para. 16);

(e) To provide for the involvement of Governments, national, regional, inter-regional and international institutions, intergovernmental and non-governmental organizations and various segments of civil society, including the mass media and the private sector, in efforts to meet these commitments (para. 13).

## B. Background

21. Corruption is now seen as a major obstacle to political and social stability, sustainable development, the rule of law and democratic government. Good governance and the establishment of adequate standards for such services as health, education and protection of the environment require integrity, transparency and trust between Governments and their people. That trust and the ability of Governments to set and implement their policies in an effective manner are seriously eroded or compromised by corruption. Governmental and judicial corruption deprive individuals of fairness, justice and the mechanisms that protect basic rights and hold state agencies legally accountable. Erosion of legal standards also compromises the ability of criminal laws and justice systems to control corruption itself. Corruption and the development of criminal justice measures to combat and eradicate it have been the subject of consideration by the General Assembly on several recent occasions.[11]

## C. Objectives

*Objective 1.* To complete preparations for the negotiation of a global instrument against corruption as quickly as possible.

### 1. National actions

22. Individually and collectively, States will support the following:

(a) The review and analysis of existing international instruments against corruption;

(b) The establishment and deliberations of an open-ended expert group to prepare draft terms of reference for the negotiation of a future legal instrument against corruption;

(c) The adoption of those terms of reference by the General Assembly at its fifty-sixth session;

(d) The full and effective participation of developing countries, in particular least developed countries, in the work of the intergovernmental open-ended expert group and ad hoc committee. This will be done through the provision of extrabudgetary resources to the Centre for International Crime Prevention.

### 2. International actions

23. To assist States in these actions, the Centre for International Crime Prevention will:

(a) Obtain, review and analyse all relevant international instruments, in consultation with Member States, with a view to providing the Commission on Crime Prevention and Criminal Justice with the necessary information to support its deliberations in accordance with General Assembly resolution 55/61 of 4 December 2000 concerning a global legal instrument. That review and analysis will take the form of a report to the Commission to be drafted by the Centre and submitted to an inter-sessional meeting of the Commission prior to its tenth session, in May 2001 (para. 16);[12]

(b) Provide substantive expertise and secretariat services to the open-ended intergovernmental expert group for the preparation of terms of reference for the negotiation of an international legal instrument against corruption (para. 16);[13]

(c) Provide substantive expertise and secretariat services to the ad hoc committee for the negotiation of an international legal instrument against corruption during its preparations for the commencement of negotiations (para. 16).[14]

### 3. Expected impact

24. These actions will pave the way for the development of comprehensive and global measures against corruption and their adoption in the form of a binding international legal instrument.

*Objective 2.* To develop and adopt a binding global international legal instrument against corruption and to bring about its signature, ratification and entry into force.

25. Negotiations should take into account and build upon other relevant international instruments and the recommendations of other bodies. Subject to the completion of background materials and the terms of reference yet to be established, negotiations will commence by early 2002. They should be concluded as expeditiously as possible.

### 1. National actions

26. National actions will include the following:

(a) Participation in the intergovernmental open-ended expert group to examine and prepare draft terms of reference for the negotiation of the instrument;

(b) Full participation in sessions of the ad hoc committee for the negotiation of a United Nations convention against corruption established pursuant to General Assembly resolution 55/61;

(c) Promoting the full and effective participation of developing countries, in particular least developed countries, in the deliberations of the ad hoc committee;

(d) Efforts to finalize the convention as soon as possible;

(e) Commencing, as appropriate, the development of domestic legislative, administrative and other measures that facilitate the ratification and effective implementation of the proposed global convention against corruption, including both domestic measures against corruption and measures to support effective cooperation with other States.

### 2. International actions

27. The Centre for International Crime Prevention will:

(a) Provide substantive expertise and full secretariat services to the ad hoc committee for the negotiation of a United Nations convention against corruption in the course of its work on the proposed convention;

(b) Provide technical cooperation to facilitate ratification and implementation of the convention to requesting States, subject to the availability of resources;

(c) Assist States in the establishment or intensification of bilateral and multilateral cooperation in the areas covered by the convention;

(d) Assist States in complying with such other requirements or obligations as may be established by the convention.

### 3. Expected impact

28. The achievement of these objectives is expected to have the following impacts:

(a) A reduction in the opportunities for corruption and the transfer and concealment of the proceeds of corruption, leading to measurable results in the fight against corruption at the national and international levels;

(b) The establishment of effective domestic and international measures against corruption;

(c) Bringing States closer to compliance with other international instruments against corruption and to conformity with international standards for the prevention, reduction and control of corruption;

(d) Preparation of States for the negotiation of a comprehensive and binding global legal instrument against corruption;

(e) Adoption, signature, ratification and implementation of such an instrument.

*Objective 3.* To identify, develop and implement programmes and measures to prevent and combat corruption.

### 1. National actions

29. National actions should be directed at the eradication of corruption in domestic agencies and activities and the enhancement of domestic capacity to cooperate with other States in eradicating forms of transnational corruption.

30. *Domestic corruption.* National actions for addressing domestic corruption include the following:

(a) The assessment of domestic types, causes, effects and costs of corruption;

(b) The development of national strategies and action plans against corruption, based on the broad participation of stakeholders from Government and civil society;

(c) The maintenance or establishment of adequate domestic offences, investigative powers and criminal procedures to deal with corruption and related problems;

(d) The strengthening of national governance systems and institutions, in particular criminal justice institutions, to create and/or ensure greater independence from and resistance to corrupt influences;

(e) The maintenance or establishment of institutions and structures to achieve transparency and public accountability in Government, business and other key social and economic sectors;

(f) The development of expertise in anti-corruption measures and the education and training of officials about the nature and consequences of corruption and in the taking of effective measures against it.

31. *Transnational corruption.* National actions for addressing transnational corruption include the following:

(a) Signature, ratification and implementation of existing international instruments against corruption, as appropriate;

(b) Implementation of international anti-corruption measures and recommendations at the national level;

(c) Development and enhancement of domestic capacity to provide international cooperation in anti-corruption matters, including the repatriation of the proceeds of corruption (General Assembly resolutions 55/61 and 55/188);

(d) Raising awareness on the part of relevant government departments or ministries such as ministries of justice, the interior, foreign affairs and development cooperation as to the seriousness of the problems posed by transnational corruption and the need to support effective measures against it;

(e) Provision of material, technical or other support to other States in anti-corruption programmes, both directly and through financial support to the global programme against corruption;

(f) Reduction in opportunities for illegal transfer and concealment of the proceeds of corruption and increasing the opportunities to repatriate such proceeds to their countries of origin. Actions may include the implementation of measures against money-laundering in the Convention and other international instruments and the development and implementation of new measures.[15]

### 2. International actions

32. States will promote increased international cooperation and coordination in devising ways and means of preventing and combating corruption. Collectively, this will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of preventing and combating corruption through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

33. The United Nations Centre for International Crime Prevention, in cooperation with the Office for Drug Control and Crime Prevention field offices and other relevant international and regional organizations, as appropriate, will:

(a) Develop a database of national assessments of corruption in a standardized format, a kit of best practices against corruption and a manual on practical measures against corruption;

(b) Provide other guidance and assistance to States that request it, subject to the availability of resources;

(c) Facilitate the establishment and implementation of best practices, norms and standards;

(d) Facilitate the sharing of experience and expertise among States;

(e) Revise and update the manual *Practical Measures against Corruption* (Economic and Social Council resolution 1995/14, para. 6);[16]

(f) Make increasing use of the Office for Drug Control and Crime Prevention field office network to support domestic and international activities against corruption.

### 3. Expected impact

34. The identification, development and implementation of effective programmes and measures against corruption will support the ongoing efforts of Member States and other intergovernmental organizations. It will also support the application of existing instruments against corruption and the longer-term effort to develop a new global instrument.

# V. Action against trafficking in persons and smuggling of migrants

## A. Commitments

35. The Vienna Declaration contains the following commitments:

(a) To reduce or eradicate the scourge of trafficking in persons, achieving a significant reduction by the year 2005 (para. 14);

(b) To reduce or eradicate the scourge of smuggling of migrants, achieving a significant reduction by the year 2005 (para. 14);

(c) To sign, ratify and implement the United Nations Convention against Transnational Organized Crime and the protocols thereto dealing with trafficking in persons and smuggling of migrants as soon as possible;[17]

(d) To develop more effective collaboration between States in dealing with matters relating to trafficking in persons and the smuggling of migrants (para. 14);

(e) To support the global programme against trafficking in persons (para. 14);

(f) To review the implementation of these commitments in places where no significant reduction in activities relating to trafficking in persons or the smuggling of migrants is achieved (para. 14).

## B. Background

36. Criminal activities related to the smuggling of migrants, slavery and similar exploitative practices represent a very old social problem, but one that has been made worse in recent years by the increasing mobility of populations and the involvement of organized criminal groups. Effective action against those problems, in particular trafficking in persons, represents a major priority for the United Nations and its Member States at the beginning of the new millennium.

37. The two protocols supplementing the United Nations Convention against Transnational Organized Crime define, distinguish between and criminalize trafficking in persons and smuggling of migrants for the first time. In the case of smuggling, migrants are relocated to another country, often in dangerous or undignified circumstances, and the criminal proceeds are derived primarily from fees charged for the actual relocation of the migrants involved. In the case of trafficking, the relocation forms the basis for some form of subsequent exploitation, such as forced labour or sexual exploitation, which generates most of the proceeds. There are important differences between the two problems, but also significant areas of overlap that make either difficult to deal with in isolation.[18]

38. The protocols and the political commitment of Member States that made them possible represent a balance between the application of criminal justice measures against smugglers and traffickers and the use of prevention, protection and support measures to minimize the adverse effects on smuggled migrants and victims of trafficking. From the perspective of crime control efforts, the focus is on taking action against the traffickers and smugglers and not against the smuggled migrants or victims of trafficking.

## C. Objectives

*Objective 1.* To make every effort to sign and ratify the Migrants Protocol and the Trafficking in Persons Protocol so that they enter into force as soon as possible.[19]

### 1. National actions

39. States that have not signed the instruments should do so as soon as possible. States that have signed should make every effort to ratify the instruments before the end of 2002. Ratification signifies an obligation to implement the provisions of the instruments. It also entails a broad political commitment to take effective measures to prevent, investigate and prosecute trafficking in persons and the smuggling of migrants and to cooperate with other States in doing so. Ratification requires States to take legislative, administrative and other measures against domestic criminal activities and measures that will enable them to provide the forms of assistance and cooperation to other States Parties set forth in the instruments.

### 2. International actions

40. Collectively, States bring each instrument into force by ratification. Each instrument takes effect initially on the ninetieth day after the fortieth State has ratified and for each additional State it takes effect on the thirtieth day after that State has ratified it. Efforts on the part of States to assist one another will play a significant role in bringing each instrument into force as quickly as possible.

41. The Centre for International Crime Prevention will actively promote signature and ratification of the Convention and the protocols thereto by organizing high-level seminars to increase awareness of the instruments on the part of States, non-governmental organizations and other key individuals and groups and by organizing, coordinating and providing expertise and assistance to States, upon request and subject to the availability of resources.

### 3. Expected impact

42. The direct impact of ratification and implementation will be the adoption of domestic measures against smuggling of migrants and trafficking in persons and the establishment of an international framework for cooperation against those activities.

43. The indirect impact will be a general increase in the effectiveness of measures against trafficking in persons and smuggling of migrants with a reduction in criminal activity and the alleviation of some of the effects of such crime on both countries and individual victims. Effective measures against transnational organized crime in general are also expected to provide benefits in the fight against domestic organized criminal groups involved in trafficking and smuggling in many States.

*Objective 2.* To take immediate and effective measures to prevent and combat trafficking in persons, to protect and assist victims of such trafficking and to promote cooperation between States in the development and implementation of such measures.

### 1. National actions

44. States will take the following actions:

(a) Prepare for ratification of the Trafficking in Persons Protocol and implement key elements of the Protocol as soon as possible;

(b) Endeavour to conduct and disseminate research about the nature and extent of domestic and regional trafficking activities and about the identities, means and methods of known traffickers or trafficking organizations;

(c) Endeavour to strengthen domestic laws and procedures, where necessary, in areas relevant to trafficking, including criminal offences, procedures and punishments, measures for the support and protection of victims and witnesses, and customs, immigration and border controls;

(d) Consider implementing measures to provide for the protection and physical, psychological and social recovery of victims of trafficking;[20]

(e) Support and cooperate with national and international non-governmental and other organizations and elements of civil society, as appropriate, in matters relating to trafficking in persons;[21]

(f) Review and assess the effectiveness of domestic measures against trafficking and consider making that information available for comparison and research into the development of more effective measures;[22]

(g) Endeavour to develop and disseminate public information about trafficking to educate potential victims;[23]

(h) Strengthen capacity for international cooperation to develop and implement measures against trafficking;

(i) Consider voluntary contributions to support the expansion and implementation of the global programme against trafficking in persons;

(j) Support the organization of a global forum in 2002 to review actions and to develop and implement regional strategies to achieve a significant reduction in the incidence of trafficking crimes worldwide by 2005;

(k) Provide increased resources to support the development and implementation of national and regional anti-trafficking strategies.

### 2. International actions

45. Collectively, States will promote increased international cooperation and coordination in devising ways and means of preventing and combating trafficking in persons. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of preventing and combating trafficking in persons through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

46. The Centre for International Crime Prevention will:[24]

(a) Develop technical cooperation projects and assist selected countries and regions to implement them under the global programme against trafficking in persons, subject to the availability of resources;

(b) Develop a global database containing information about the nature and extent of trafficking and best practices for preventing and controlling it, in cooperation with the United Nations Interregional Crime and Justice Research Institute;

(c) Support the development of a global strategy and the organization of a global forum on trafficking issues;

(d) Develop tools to assess the effectiveness of measures against trafficking;

(e) Make increasing use of the Office for Drug Control and Crime Prevention field office network to support activities against trafficking in persons.

### 3. Expected impact

47. The development and implementation of effective measures against trafficking in persons, both in the course of implementing the United Nations Convention against Transnational Organized Crime and the Trafficking in Persons Protocol and otherwise will lead to significant decreases in trafficking activities generally and the incidence of offences relating to trafficking in persons worldwide by 2005.

48. The development and implementation of effective measures to protect and support victims of trafficking and witnesses in trafficking cases will have the following impacts:

(a) Improvements in the quality of life of victims of trafficking;

(b) Improvements in the prospects of victims for rehabilitation and reintegration into societies;

(c) More effective protection of the basic rights of victims and witnesses;

(d) Better general preservation of and support for humanitarian interests;

(e) An increase in the willingness of victims of trafficking to cooperate with national authorities in the investigation and prosecution of offenders and in programmes that prevent trafficking or protect and support other victims of trafficking.

*Objective 3.* To take immediate and effective measures to prevent and combat smuggling of migrants, to protect and assist smuggled migrants and to promote cooperation between States in the development and implementation of such measures.

### 1. National actions

49. States will take the following measures:

(a) Prepare for ratification of the Migrants Protocol and implement key elements of the Protocol as soon as possible;

(b) Endeavour to conduct and disseminate research about the nature and extent of domestic and regional activities relating to smuggling of migrants and about the identities, means and methods of known smugglers or smuggling organizations;

(c) Endeavour to strengthen domestic laws and procedures, where necessary, in areas relevant to smuggling of migrants, including criminal offences, procedures and punishments, measures for the support and protection of smuggled migrants and witnesses and customs, immigration and border controls;

(d) Consider implementing measures to protect the basic rights of smuggled migrants, to protect them from violence and to take appropriate measures in cases where the lives, safety or human dignity of

migrants are placed in jeopardy in the course of being smuggled;[25]

(e) Support and cooperate with national and international non-governmental and other organizations and elements of civil society, as appropriate, in matters relating to the smuggling of migrants;[26]

(f) Review and assess the effectiveness of domestic measures against the smuggling of migrants and consider making that information available for comparison and research into the development of more effective measures;[27]

(g) Endeavour to develop and disseminate public information about smuggling of migrants to educate officials, the general public and potential migrants about the true nature of migrant smuggling, including the involvement of organized criminal groups and the risks posed to smuggled migrants;[28]

(h) Strengthen capacity for international cooperation to develop and implement measures against the smuggling of migrants.

#### 2. International actions

50. Collectively, States will promote increased international cooperation and coordination in devising ways and means of preventing and combating the smuggling of migrants. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and among other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of preventing and combating smuggling through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework. Such actions should be taken with sensitivity to the needs and aspirations of legitimate migrants and with a view to combating the smuggling of migrants and not migration itself (paras. 10, 13 and 15).

51. The Centre for International Crime Prevention will:[29]

(a) Develop technical cooperation projects and assist selected countries and regions to implement them under the global programme against trafficking in persons, subject to the availability of resources;

(b) Make increasing use of the Office for Drug Control and Crime Prevention field office network to support activities against smuggling of migrants.

#### 3. Expected impact

52. The development and implementation of effective measures against smuggling of migrants, both in the course of implementing the United Nations Convention against Transnational Organized Crime and the Migrants Protocol and otherwise, will lead to significant decreases in the smuggling of migrants and the incidence of related criminal activities worldwide by 2005, while at the same time protecting the basic rights and human dignity of migrants.

## VI. Action against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition[30]

### A. Commitments

53. The Vienna Declaration contains the following commitments (para. 15):

(a) To enhance international cooperation and mutual legal assistance to curb the illicit manufacturing of firearms, their parts and components and ammunition;

(b) To achieve a significant reduction in the worldwide incidence of illicit manufacturing and trafficking of firearms, their parts and components and ammunition by the year 2005.

### B. Background

54. Illicit trafficking in firearms represents two major crime control problems. Firearms are not just instruments used in domestic and transnational crime, but also a major illicit commodity. When trafficked in large numbers, they can affect not only crime, but the overall domestic stability and security of States. This makes illicit manufacturing and trafficking a matter of concern not only for criminal justice systems, but also for ministries and agencies responsible for such things as national security, military or national defence matters, arms control and sustainable development.

Effective measures to prevent and control illicit manufacturing and trafficking can be developed and implemented in the context of domestic and international crime control agendas, but such measures must also take into consideration broader questions relating to security, arms control and sustainable development.

## C. Objectives

*Objective 1.* To [adopt,] sign, ratify and implement the Convention and the Firearms Protocol as soon as possible.[31]

*Objective 2.* To take such other measures as are appropriate to reduce the incidence of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and related criminal activities.[32]

### 1. National actions

55. Achieving a significant reduction in the illicit manufacturing of and trafficking in firearms and related items will require implementation of the major elements of the Firearms Protocol, accompanied by the commitment of sufficient personnel and resources in areas such as legislative development, law enforcement, border and customs controls to ensure that those elements are applied effectively by all States parties.

56. By 2005, most Member States that have not already done so will have developed, adopted and implemented the necessary domestic legal and administrative measures, which will create an infrastructure for preventing and controlling illicit transnational traffic in firearms and related items.

57. Actions include the following legislative and other measures:

(a) The establishment of offences required by the Firearms Protocol. Additional supporting offences, such as failing to create or keep required records or failing to maintain required security standards for documents or shipments, may also be needed (see articles 5, 7, 10 and 11);

(b) Legislation establishing which items are to be considered "firearms", "parts and components" and "ammunition" for purposes of the Protocol;

(c) The establishment of licensing rules and procedures for legitimate manufacture, import, export, transit and related activities;

(d) Legislation providing for the seizure, confiscation or forfeiture and disposal of illicit firearms, their parts and components and ammunition;

(e) Requirements that records relating to the manufacture, marking, import, export and transit of firearms and, where appropriate and feasible, their parts and components and ammunition, be kept and establishment of the specific content of such regulations;

(f) Requirements that all firearms manufactured on States' territories be marked at the time and place of manufacture and that previously manufactured unmarked firearms be marked at the time of any subsequent transfer if that transfer involves import, export or transit through another State;

(g) Legal and administrative requirements to safeguard against the loss, theft or diversion of firearms;

(h) Legal or other measures to set effective standards for the deactivation or destruction of firearms and to ensure that such firearms cannot be restored to function as firearms, used as a source of parts and components for the repair or restoration of other illicit firearms or returned to legal commerce without adequate safeguards;

(i) The establishment of authorities to whom requests for information relating to illicit manufacturing or trafficking can be made by other States and who are authorized and equipped to respond to such requests;

(j) The collection and maintenance of information to assist other States in developing general legislative, administrative, investigative or other measures and relating to matters involving specific offences, offenders or firearms;

(k) The gathering, analysis and sharing of relevant information, including:

(i) Numbers and nature of offences and offenders involved in illicit manufacturing or trafficking;

(ii) Related offences such as tampering with firearm markings and violations of licensing or

authorization requirements for the import, export or transit of firearms and related items;

(iii) Relevant activities of law enforcement and customs agencies responsible for the prevention, detection and investigation of such offences;

(iv) Firearms confiscated and how they were disposed of;

(l) The preparation and dissemination of periodic national reports on the efforts of each State to reduce offences related to illicit manufacturing and trafficking and on the results achieved. The reports should contain information on such things as the methods used for identifying and tracing firearms, import/export and in-transit licensing or authorization regimes and border control measures.

### 2. International actions

58. International and regional actions in this area will consist largely of coordinating, assisting and facilitating the measures taken by Member States against illicit trafficking and of conducting research into the nature and scope of the problem and of efforts taken by States to control it. As in the case with other crime control or crime prevention initiatives, international activities may also include providing advice or technical assistance in domestic firearm control matters to Member States at their request.

59. The Centre for International Crime Prevention will:[33]

(a) Establish and maintain a comprehensive and up-to-date record of worldwide firearms regulations and related law enforcement practices in a format accessible to countries and relevant international organizations;

(b) Identify, describe and share information about best practices relating to the implementation of the Firearms Protocol or domestic firearm control measures;

(c) Provide technical assistance to developing countries and countries with economies in transition in developing and implementing legal and other measures to control illicit trafficking at the domestic and international levels, subject to the availability of resources;

(d) Provide assistance to signatories of the Convention and the Firearms Protocol in developing and implementing the measures required by those instruments, both prior to and after the instruments are ratified;[34]

(e) Promote training and the exchange of experience between countries in the prevention, investigation and prosecution of illicit trafficking and other firearm-related offences;

(f) Cooperate with States parties to the Protocol, the Conference of Parties to the Convention, technical experts and the firearms manufacturing community to develop and disseminate information about best practices in marking firearms and the protection of markings against tampering or removal;

(g) Support and facilitate cooperation between States parties to the Protocol and manufacturers, dealers, importers, exporters, brokers and commercial carriers of firearms in developing and implementing effective measures against illicit manufacturing and trafficking and in measures to prevent the loss, theft or diversion of legally manufactured, imported or exported firearms;

(h) Analyse information received by the Conference of States Parties to the Convention and prepare reports on its analysis for submission to the Conference;

(i) Coordinate international efforts to combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition.

60. The Centre and the institutes of the United Nations Crime Prevention and Criminal Justice Programme network will cooperate with other intergovernmental organizations and relevant non-governmental organizations in raising general public awareness of the nature and extent of illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, the problems they pose for States and their populations and the measures being taken to prevent, control and eradicate the problem.

### 3. Expected impact

61. The impacts of achieving this objective will include the following:

(a) A significant reduction in the worldwide incidence of illicit manufacturing and trafficking of firearms and related items by the year 2005;

(b) Greater transparency with respect to licit and illicit international transfers of firearms;

(c) Reduction in the supply of illicit firearms by actions against illicit manufacturing and trafficking, by security measures to prevent the diversion of legal firearms onto the illicit market and by technical measures to prevent the reactivation of destroyed or deactivated firearms;

(d) Firearm-related crimes, including illicit trafficking and the misuse of firearms, will be prevented and deterred by reducing the supply of illicit or untraceable firearms and by record-keeping systems that provide evidence against offenders.

# VII. Action against money-laundering

## A. Commitments

62. The Vienna Declaration and other instruments contain the following commitments:

(a) To develop, adopt and implement broad regimes and appropriate mechanisms to combat laundering of the proceeds of crime (para. 17);[35]

(b) To provide support to initiatives directed at cross-border financial services that allow laundering and the States and territories that offer such services (para. 17);

(c) To support the Office for Drug Control and Crime Prevention's global programme against money-laundering and other programmes or projects that support implementation of the Convention.

## B. Objectives

*Objective.* To develop, adopt and implement effective domestic legislation, regulations and administrative measures to prevent, detect and combat domestic and transnational money-laundering in cooperation with other States, in accordance with relevant international instruments.[36]

### 1. National actions

63. The development and implementation of effective measures at the national level is essential to enable each State to combat domestic money-laundering activities, to avoid becoming a haven for money-laundering by foreign organized criminal groups and to cooperate effectively with other States in the international effort to combat money-laundering. Taking into account internationally accepted anti-money-laundering standards and the efforts of international and regional organizations, each State will:

(a) Adopt comprehensive measures to deal effectively with the problem of money-laundering in all its aspects with the participation of all relevant ministries, departments and agencies and in consultation with representatives of the financial sector;

(b) Ensure that domestic legislation adequately criminalizes activities and methods used to conceal, convert or transfer the proceeds of crime in order to disguise the nature or origin of the proceeds or to avoid tracing, seizure and confiscation;

(c) Ensure that adequate regulatory, inspection and investigative powers exist to monitor legitimate financial activities in order to detect and identify money-laundering activities;

(d) Ensure that adequate powers exist to permit the identification, tracing, seizure, confiscation and disposal of proceeds of crime;

(e) Ensure that adequate legal powers exist and administrative resources are available to permit timely and effective responses to be made to requests from other States in cases involving money-laundering;

(f) Support and participate in domestic and international research efforts to monitor and analyse trends in money-laundering and international policy responses;

(g) Support and participate in projects or programmes to assist other States in the development, drafting or upgrading of legislation, regulations and administrative procedures against money-laundering, including the global programme against money-laundering and other programmes or projects that support implementation of the Convention;

(h) Support and participate in projects or programmes to train officials or share expertise in combating money-laundering, such as training workshops and seminars.

### 2. International actions

64. Collectively, States will promote increased international cooperation and coordination in devising ways and means of preventing and combating money-laundering. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of preventing and combating money-laundering through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

65. The Office for Drug Control and Crime Prevention will:

(a) Assist Member States in the drafting and implementation of national anti-money-laundering legislation and regulations;

(b) Ensure that the activities of the Office are coordinated with national measures taken to implement the relevant provisions of the Convention and other initiatives developed by other international or regional organizations to combat money-laundering;

(c) Contribute to the strengthening of mechanisms for regional and international cooperation, including such matters as drafting and assisting in the implementation of agreements for the rapid exchange of information in money-laundering and related cases and the sharing of confiscated criminal assets between States;

(d) Undertake efforts to foster the understanding and implementation of best practices in the regulation of financial services;

(e) Conduct or review in-depth research studies on national economic structures to assess the potential money-laundering risks and new money-laundering trends encountered by States or jurisdictions;

(f) Undertake efforts to raise awareness of the nature, scope and seriousness of the problem of money-laundering on the part of key officials and the general public;

(g) Encourage donor countries to continue providing support to the Global Programme against Money-Laundering and to support programmes and projects that encourage the adoption and implementation of the relevant provisions of the Convention;

(h) Seek to enlarge the spectrum of potential donors to keep pace with the expanding international effort to combat money-laundering as an element of the general strategy to combat transnational organized crime in all its forms.

### 3. Expected impact

66. Implementation of the objective will result in more effective tools to combat domestic and transnational aspects of money-laundering, with a consequent reduction of the ability of organized criminal groups to derive benefits from their proceeds and to dedicate illicit resources to further criminal activities. Greater awareness of the problem on the part of officials and the general public will aid in the fight against money-laundering.

## VIII. Action against terrorism

### A. Commitments

67. The Vienna Declaration contains the following commitments:

(a) To take effective, resolute and speedy measures with respect to preventing and combating criminal activities carried out for the purpose of furthering terrorism in all its forms and manifestations (para. 19);

(b) To foster universal adherence to international instruments concerned with the fight against terrorism (para. 19).

### B. Background

68. While some aspects of the problem of international terrorism are rooted in political conflicts and as such are beyond the scope of mere criminal justice responses, there are in some cases relationships

between criminal activities and terrorist groups, which may involve such things as the use of proceeds of criminal offences to finance terrorism or the commission of criminal offences for political motives. However, the nature and extent of those relationships varies from group to group and country to country.

## C. Objectives

*Objective 1.* To take effective, resolute and speedy measures with respect to preventing and combating criminal activities carried out for the purpose of furthering terrorism.

### 1. National actions

69. States will consider, inter alia, the following measures:

(a) Fostering better cooperation between anti-terrorist agencies and agencies engaged in combating crime. This may include the establishment of liaison offices or other channels of communication between counterterrorist agencies and agencies fighting crime in order to enhance information exchange;

(b) Signature and ratification of the Convention and implementation of the provisions of the Convention dealing with money-laundering and the search for and seizure and confiscation of proceeds of crime, as soon as possible;

(c) Conducting research and gathering information about international terrorism and its relationship to crime and participating in and supporting similar work at the international level.

### 2. International actions

70. The Terrorism Prevention Branch will:

(a) Offer analytical support by collecting information on the relationship between terrorism and related criminal activities;

(b) Continue to maintain various databases on terrorism;

(c) Maintain close links with the Centre for International Crime Prevention's global programmes in order to integrate, where feasible, information or databases dealing with terrorism and crime;

(d) In cooperation with Member States, take appropriate measures to raise public awareness of the nature and scope of international terrorism and its relationship to crime, including transnational organized crime.

*Objective 2.* To promote universal adherence to international instruments[37] concerned with the fight against terrorism.

### 1. National actions

71. States will consider the signature and ratification of conventions and protocols dealing with terrorism, the development and adoption of appropriate domestic laws and administrative procedures and the implementation of such laws and procedures to achieve effective domestic measures against terrorism and the enhancement of their ability to cooperate effectively in appropriate cases with other States when requested to do so.

### 2. International actions

72. The Terrorism Prevention Branch will, in cooperation with the Office of Legal Affairs of the Secretariat,[38] take steps to raise awareness of the relevant conventions and protocols, encourage States to sign and ratify such instruments, and where feasible, coordinate or provide assistance in implementing such instruments to States upon request.

# IX. Action on crime prevention

## A. Commitments

73. The Vienna Declaration contains the commitment to develop comprehensive crime prevention strategies at the international, national, regional and local levels to address the root causes and risk factors of crime and victimization through social, economic, health, educational and justice policies (para. 25).

## B. Background

74. The wide-ranging nature and potential impact of crime prevention programmes have been widely accepted as a practical response to the problem of crime in all its forms, including organized and

transnational crime. The prevention of crime is generally more cost-effective than reactive responses and avoids the impact of criminal offences on victims and other hidden costs of crime.

## C. Objectives

*Objective 1.* To promote and develop initiatives at the local, national and international levels that recognize the importance of crime prevention and incorporate effective crime prevention elements.

*Objective 2.* To share information about successful and innovative crime prevention initiatives between Member States, with a view to applying such initiatives in other countries or at the international level, as appropriate.

### 1. National actions

75. States will take the following measures:

(a) Assist and cooperate closely with elements of civil society in the development, adoption and promotion of crime prevention initiatives, including the funding of such initiatives;

(b) Encourage governmental and non-governmental monitoring of crime prevention programmes;

(c) Monitor and implement situational and other crime prevention programmes with due regard to the potential for the infringement of civil liberties;

(d) Maintain liaison with other Governments and non-governmental organizations with regard to successful and innovative crime prevention initiatives, which may have the potential for foreign or international application;

(e) Undertake efforts to share their specialized knowledge and expertise in crime prevention practices with other countries.

### 2. International actions

76. Collectively, States will promote increased international cooperation and coordination in devising ways and means of preventing crime. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of crime prevention through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

77. The Centre for International Crime Prevention will:[39]

(a) Promote crime prevention expertise that has been carefully adapted from established practices to the conditions in the countries where those practices are to be implemented;[40]

(b) Monitor and respond to the rapid evolution and globalization of crime through the promotion and dissemination of innovative and effective crime prevention initiatives that take account of the impact of new technologies on crime and crime prevention;

(c) Develop technical cooperation projects in the area of crime prevention for selected countries and regions and assist in their implementation, subject to the availability of resources;

(d) Subject to the availability of resources, develop guidelines for policy makers and a handbook on practices in the area of crime prevention, based upon best available expertise and experience.

### 3. Expected impact

78. Successful and innovative initiatives to prevent crime in general and transnational organized crime in particular, within and between Member States, should ultimately result in the following:

(a) A reduction in the socialization and recruitment of juveniles into crime and organized criminal groups;

(b) A reduction in opportunities and demand to commit crimes, through, for example, socio-economic and reintegration measures;

(c) A reduction in the number of people and communities victimized and generally harmed by crime;

(d) An ultimate reduction in overall crime rates.

# X. Action on witnesses and victims of crime

## A. Commitments

79. The Vienna Declaration contains the following commitments:

(a) To introduce, where appropriate, national, regional and international action plans in support of victims of crime, such as mechanisms for mediation and restorative justice, and to develop further victim support services (para. 27);

(b) To develop awareness campaigns on the status and interests of victims (para. 27);

(c) To consider the establishment of funds for victims (para. 27);

(d) To develop and implement witness protection policies (para. 27);

(e) To review practices relating to the interests and treatment of victims of crime by 2002 (para. 27);

(f) To endeavour to develop and implement restorative justice policies respectful of the rights, needs and interests of victims (para. 28);

(g) To take into account the special needs of female victims and witnesses in criminal justice systems (paras. 11 and 12).[41]

## B. Background

80. The protection and support of victims and witnesses is recognized as an important basic element of overall crime prevention and crime control strategies. Support measures reduce the impact of crime on those most directly affected and are essential to preserving and protecting the role of victims and witnesses in the criminal justice process, in particular with respect to organized crime and specific offences such as trafficking in persons, where intimidation or retaliation may be used against those who cooperate with States in preventing, investigating or prosecuting offences.

81. Restorative justice is regarded as an alternative mode of criminal justice. It is defined as a unique response to crime, to be distinguished from both rehabilitative and retributive responses. It assumes a process whereby all the parties with a stake in a specific offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future.[42]

## C. Objectives

*Objective.* To develop and promote domestic and international policies that mitigate the impact of crime on its victims and support the interests and roles of victims in the criminal justice process.

### 1. National actions

82. States will take the following measures:

(a) Ratify the Convention and the Trafficking in Persons Protocol and implement the provisions of those instruments which provide for the protection and support of victims and witnesses as soon as possible;[43]

(b) Undertake to produce national and regional studies on victims of crime in the national justice systems (paras. 25 and 27);[44]

(c) Undertake further to implement, subject to the domestic legal system of each State, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (General Assembly resolution 40/34, annex), taking as a guide the *Handbook on Justice for Victims* and the *Guide for Policy Makers*;

(d) Take into account Economic and Social Council resolution 2000/14 of 27 July 2000, entitled "Basic principles on the use of restorative justice programmes in criminal matters", including the desirability and the means of establishing common principles;

(e) Consider sharing best practices concerning victims and witnesses with other States via web sites or other media or forums.

### 2. International actions

83. Collectively, States will promote increased international cooperation and coordination in devising ways and means of protecting and supporting victims and witnesses. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote ways and means of protecting and supporting victims and witnesses through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

84. The Centre for International Crime Prevention will:[45]

(a) Prepare for the establishment and administration of an international fund for support to victims of transnational crime;

(b) Pay particular attention to the prevention of trafficking in persons and sex tourism and to the support of victims and witnesses, especially women or children, in such cases;

(c) Exchange information on experiences in the implementation and evaluation of programmes for restorative justice;

(d) Promote best practices in crime prevention using, for example, the International Victimology Website (www.victimology.NL).

### 3. Expected impact

85. Supporting and protecting victims and witnesses will reduce the overall impact of crime. It will also assist in the investigation and prosecution of crime, in particular domestic and transnational organized crime, by facilitating cooperation between victims and witnesses and law enforcement and prosecution agencies.

## XI. Action on the treatment of offenders

### A. Commitments

86. The Vienna Declaration contains the following commitments:

(a) To promote safe and effective alternatives to incarceration, as appropriate, as a means of containing the growth and overcrowding of pre-trial and detention prison populations (para. 26);

(b) To adopt and implement countermeasures against the recruitment of juveniles by criminal groups (para. 24);

(c) To incorporate juvenile justice provisions into national development plans and international development strategies (para. 24);

(d) To include the administration of juvenile justice as an element of national funding policies for development cooperation (para. 24);

(e) To endeavour to develop and implement restorative justice policies that are respectful of the rights, needs and interests of offenders (para. 28 and Economic and Social Council resolution 2000/14);

(f) To ensure that national and international crime prevention and criminal justice strategies take into account and address any disparate impact of programmes and policies on women and men (para. 11), or on the grounds of race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status (see the Basic Principles for the Treatment of Prisoners, General Assembly resolution 45/111, annex, para. 2).

### B. Background

87. The appropriate treatment of offenders, whether by incarceration or other methods, is recognized in many States as the basis of a viable balance between the interests of the punishment and deterrence of crime, the protection of individuals and societies from crime, the humanitarian and social benefits of reintegrating offenders into societies and the operation of criminal justice systems that use resources as efficiently and effectively as possible.

## C. Objectives

*Objective.* To develop and implement national and international policies that reduce the need for incarceration and the probability of recidivism, in particular in the case of youthful or juvenile offenders.

### 1. National actions

88. States will consider the following measures:[46]

(a) The introduction of appropriate alternatives to imprisonment in their criminal justice systems (Economic and Social Council resolutions 1998/23, para. 1, and 1999/26);

(b) The adoption of effective measures to reduce pre-trial detention (Economic and Social Council resolution 1998/23, para. 2, and General Assembly resolution 45/110, annex, para. 6);[47]

(c) Dealing with petty offences according to customary practice where available, provided that this meets human rights requirements and that those involved so agree (Economic and Social Council resolution 1998/23, para. 3);

(d) Using amicable means to resolve petty offences among parties, for example, by using mediation, civil reparations or agreements whereby the offender compensates the victim (resolution 1998/23, para. 3);

(e) Preferring community service and other non-custodial measures to imprisonment, if possible (resolution 1998/23, para. 3, and General Assembly resolution 45/110, annex);

(f) Conducting public awareness and education campaigns to raise awareness about alternatives to imprisonment and how they work (resolution 1998/23, para. 3);

(g) Promoting a culture favourable to mediation and restorative justice among law enforcement, judicial and social authorities and local communities (resolution 1999/26, para. 5);

(h) Providing appropriate training for those involved in the implementation of restorative justice policies and programmes (resolution 1999/26);

(i) Developing specific actions and time-bound targets to address prison overcrowding, recognizing that conditions in overcrowded prisons may affect the human rights of prisoners (resolution 1999/27);

(j) Promoting measures to reduce the number of prisoners on remand and awaiting trial (resolution 1999/27);

(k) Promoting and implementing good prison practice in conformity with international standards;[48]

(l) Promoting the re-education and rehabilitation of children and young people who are in conflict with the law by encouraging, where appropriate, the use of mediation, conflict resolution conciliation and other methods of restorative justice as alternatives to judicial proceedings and custodial-based sanctions (resolution 1999/28, para. 8).

### 2. International actions

89. Collectively, States will promote increased international cooperation and coordination in devising ways and means of dealing with offenders. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, promote effective ways and means of dealing with offenders through their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

90. Other international actions will include the following measures:

(a) Efforts by the Centre for International Crime Prevention and States to encourage international and regional financial institutions to incorporate in their technical cooperation programmes measures to reduce prison overcrowding, including the establishment of adequate infrastructure and the development of alternatives to imprisonment in their criminal justice systems (Economic and Social Council resolution 1998/23, para. 4);

(b) The exchange of information and experience on mediation and restorative justice between interested States and with international organizations and other entities (resolution 1999/26, para. 7);

(c) The development and conduct of technical cooperation projects to assist selected countries and regions in the areas of incarceration, rehabilitation and the treatment of juvenile offenders, subject to the availability of resources.

### 3. Expected impact

91. The impacts of successful actions regarding the treatment of offenders include the maintenance of more humane and cost-effective criminal justice systems and the prevention and reduction of crime through reduced rates of recidivism. The benefits are greatest with respect to juvenile offenders, who are more open to rehabilitation and who pose a longer-term risk of offending if not rehabilitated.

## XII. Action against the criminal misuse of information technologies[49]

### A. Commitments

92. The Vienna Declaration contains the following commitments:

(a) To develop action-oriented policy recommendations on the prevention and control of computer-related crime (para. 18);[50]

(b) To enhance national and international abilities to prevent, investigate and prosecute high-technology and computer-related crime (para. 18 and General Assembly resolution 55/63).

### B. Background

93. The expansion of computer and telecommunications networks and related technologies provides a platform for legitimate activities, but it also creates numerous opportunities for traditional and new forms of crime. Effective measures to prevent and control crime involving those technologies are essential to preserving the social and economic benefits and ensuring that they extend equally to developed and developing countries.

94. The evolution of computer and telecommunications technologies, and hence of related forms of crime, is dynamic. The expansion of the Internet is proceeding at an ever-increasing rate and this is expected to continue in the future, especially in the developing world, where access rates are still relatively low. Controlling the resulting increase in crime will represent a major challenge for the criminal justice community, as well as those who have an interest in the technologies from other standpoints, such as sustainable development, human rights, intellectual property and electronic commerce. Developing viable policies at the national and international levels will require an acceptable balance between measures to control computer-related crime and other significant interests, including the privacy and other rights of technology users and the value of computer and telecommunications networks as media for commercial and non-commercial communications and other activities.

95. Many elements of an overall crime control strategy will be based on laws and policies developed at the national level, but the ease with which those technologies and their users transcend national borders will make essential the development of a strategy that closely coordinates between domestic and international elements. International and regional forums will be established and expanded to bring together legal and technical experts in computer and telecommunications issues, from both the public and private sectors, to develop materials in support of the fight against transnational computer-related crime. In addition to specific measures, the overall balance between effective crime control, the protection of basic human rights and the preservation of the utility of computer and telecommunications networks for commercial and other purposes will be under active consideration. This will include the search for an effective way to protect the basic rights of suspects and others in transnational computer crime investigations, taking into account the speed with which actions must be taken to be effective in such cases.

96. The role of the United Nations, the Centre for International Crime Prevention and other United Nations entities will be clarified in the coming years. Generally, the United Nations is committed to bridging what has been described as the "digital divide" between the developed and developing worlds and it is the only organization with the necessary membership and commitment to address that objective.[4]

## C. Objectives

*Objective 1.* To prevent and control all forms of criminal misuse of information technologies, in close cooperation with the telecommunication, computer and Internet industries.

*Objective 2.* To develop and disseminate policy, legal, technical and other expertise and information that will assist countries at all stages of legal, social and economic development in controlling computer-related crime in order to ensure that security concerns do not become an obstacle to bridging the digital divide between developed and developing countries.

### 1. National actions

97. The development of a domestic strategy to prevent and combat crime involving information technologies should be conducted within the framework of broader national policies regarding such technologies. This will generally require basic policies relating to areas such as the balance between public- and private-sector control of such technologies, cooperation with other countries in technical and legal matters and the balance between the application of basic human rights such as the freedom of expression and privacy rights and the effective regulation of the technologies to maximize the benefits derived from them. Many Member States will already have adopted such policies and others will find it necessary to do so.

98. National actions may include the following measures:

(a) Criminalization of the misuse of information technologies and amendment of definitions of traditional crimes such as fraud to ensure that they apply in cases where computer and telecommunication media and networks are used to commit those offences (see General Assembly resolution 55/63, para. 1 (a));

(b) The development and implementation of legal powers, jurisdictional rules and other procedural provisions to ensure that computer- and telecommunication-related crimes can be effectively investigated at the national level and that effective cooperation can be obtained in multinational cases, taking into account the need for effective law enforcement, national sovereignty and the need to maintain effective protections for privacy and other basic rights (see resolution 55/63, paras. 1 (a) and (j)). This may include:

(i) The adjustment of rules of evidence to ensure that computer evidence can be preserved, authenticated and used in criminal proceedings;

(ii) The adoption or amendment of provisions dealing with the national and international tracing of communications;

(iii) The adoption or amendment of provisions governing the conduct of domestic and cross-border electronic searches;

(iv) The adoption or amendment of provisions dealing with the interception of communications transmitted on computer networks and similar media;

(c) Ensuring that law enforcement personnel are trained and equipped to be able to respond effectively and expeditiously to requests for assistance in the tracing of communications and other measures necessary for the investigation of transnational computer-related crimes (see resolution 55/63, para. 1 (d));

(d) Engaging in domestic and international discussions with industries involved in the development and deployment of computers, telecommunication equipment, network software and hardware and other relevant products and services. These discussions should include key areas such as:

(i) The legal, social and technical effects of technological changes;

(ii) Issues relating to domestic and international regulation of the technologies and networks;

(iii) Issues relating to the incorporation of elements intended to prevent crime or facilitate the detection, investigation or prosecution of crime into new technologies (see resolution 55/63, para. 1 (i));

(e) The making of voluntary contributions, in cooperation with the private sector, in the form of resources and technical expertise needed to assist other States in developing and implementing effective crime control and prevention measures as their populations take up the new technologies.

### 2. International actions

99. Collectively, States will promote increased international cooperation and coordination in devising ways and means of preventing and combating computer-related crime. This will be done through specialized agencies and other entities of the United Nations system, international financial institutions and other relevant bodies. States that are members of such institutions will, through their membership, develop and promote ways and means of preventing and combating computer-related crime, using their own technical cooperation programmes and through the institutions' frameworks for cooperation with recipient countries, for example, the United Nations Development Assistance Framework (paras. 10, 13 and 15).

100. The Centre for International Crime Prevention will:[51]

(a) Support the expansion of national and international research activities to identify new forms of offending, new patterns of offending, the effects of offending in key areas such as sustainable development, protection of privacy and electronic commerce and the legislative and other measures taken in response by developed and developing countries and the private sector;

(b) Function as the secretariat for discussions dealing with crime prevention and criminal justice issues, including the possible negotiation of an international instrument or instruments dealing with crimes involving information technologies;

(c) Prepare and disseminate internationally agreed materials such as guidelines, legal and technical manuals, minimum standards, best practices and model legislation to assist legislators and law enforcement and other authorities in the development, adoption and application of effective measures against computer-related crime and offenders both in general and in specific cases;

(d) Promote, support and implement, as appropriate, technical cooperation and assistance projects, subject to the availability of resources. Such projects would bring together experts in crime prevention, computer security offences, procedural power and legislation, prosecution, investigative techniques and related matters with States seeking information or assistance in those areas.

### 3. Expected impact

101. By the year 2005, ongoing discussions about the nature, extent and evolution of computer-related crime should have expanded to include all States. Steps will have been taken towards the development of a universal approach to areas such as research, criminal offences, investigative powers, other procedural measures and international cooperation.

102. The development, adoption and implementation of effective measures to prevent and control domestic and transnational crimes involving information technologies will maximize the benefits of such technologies for all Member States and their peoples.

*Notes*

[1] See *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10-17 April 2000: report prepared by the Secretariat* (United Nations publication, Sales No. E.00.IV.8).

[2] As at 1 April 2001, adoption of the Protocol by the General Assembly was still pending (see the report of the Ad Hoc Committee on its twelfth session (A/55/383/Add.2)).

[3] See *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

[4] See the reports of the Secretary-General to the Millennium Assembly (A/54/2000, paras. 150-167) and on development and international cooperation in the twenty-first century: the role of information technology in the context of a knowledge-based global economy (E/2000/52).

[5] The Convention and the protocols dealing with trafficking in persons and smuggling of migrants were adopted by the General Assembly by its resolution 55/25 of 15 November 2000. A third protocol, dealing with illicit trafficking in firearms, was finalized in March 2001 and its adoption by the Assembly is still pending. The possible negotiation of a fourth protocol, dealing with illicit trafficking in explosives, is still pending (see resolution 54/127).

[6] In the same resolution the Assembly requested the Secretary-General to convene an expert group to prepare a study on the subject and to report, as early as possible, to the Commission on Crime Prevention and Criminal Justice on the results of the study.

[7] This will be done in cooperation with the United Nations Interregional Crime and Justice Research Institute and, as appropriate, other members of the United Nations Crime Prevention and Criminal Justice Programme network and other international organizations, including law enforcement agencies (e.g. the International Criminal Police Organization (Interpol) and Europol) and data providers in the different countries. The principal mechanism would be the United Nations Transnational Organized Crime Assessment Survey.

[8] Article 33 of the Convention and General Assembly resolution 55/25. Under article 1, paragraph 3, of each protocol, the Conference of the Parties to the Convention will perform a similar role with respect to the protocols.

[9] This refers to building on the United Nations Declaration against Corruption and Bribery in International Commercial Transactions (General Assembly resolution 51/191, annex), the International Code of Conduct for Public Officials (resolution 51/59, annex), as well as relevant regional conventions and regional and global forums.

[10] This is a preparatory step to the development of an international instrument.

[11] In its resolution 54/205, the General Assembly called for strengthened measures to prevent and address corruption, bribery, money-laundering and the illegal transfer of funds, and requested the Secretary-General to develop recommendations regarding the repatriation of illegally transferred funds (see also resolution 53/176). In its resolution 55/61, the Assembly requested the Secretary-General to convene an intergovernmental open-ended expert group to prepare draft terms of reference for the negotiation of a future legal instrument against corruption. In its resolution 55/188, the Assembly invited the open-ended expert group created in accordance with resolution 55/61 to consider illegally transferred funds and the question of repatriation of such funds as part of the possible terms of reference for an international instrument. The Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime also considered the issue of corruption pursuant to resolution 54/128.

[12] See also General Assembly resolutions 54/128, para. 8 (d), and 55/61, para. 3. In resolution 55/61, the Assembly requested that the report be submitted in time to allow Member States to provide comments to the Commission at its tenth session.

[13] See also Economic and Social Council resolution 2000/13, para. 6, and General Assembly resolution 55/61, para. 5.

[14] See also Economic and Social Council resolution 2000/13, para. 7.

[15] See General Assembly resolution 55/188, in which the Assembly calls for consideration of illegal funds transfers and the repatriation of such funds as part of the draft terms of reference for a global instrument against corruption.

[16] For the text of the original manual, see *International Review of Criminal Policy*, 1993, Nos. 41-42.

[17] The Convention contains general provisions against transnational organized crime that are expected to assist in the effort to reduce or eradicate this problem. Countries must ratify the Convention before they can ratify any of the protocols thereto: pursuant to article 37 of the Convention and article 1 of each of the protocols, no protocol can take effect until the Convention itself is in force and no State can become a party to a protocol unless it is also a party to the Convention itself.

[18] Both are dealt with together in paragraph 14 of the Vienna Declaration and the two protocols contain several common elements, notably those dealing with border measures and the security of travel documents (arts. 11 and 12 in both protocols). In an effort to recognize both the common elements and the need to distinguish between smuggling and trafficking, this section of the Plans of Action deals with the subject matter under a single background section, but with separate goals and objectives for each.

[19] Note that, in order to ratify either protocol, each State must first ratify the Convention (see footnote 17 above).

[20] The protection of victims and witnesses is dealt with in the Convention in articles 24, 25 and 29, paragraph 1 (i), and in the Protocol in articles 6-8.

[21] The Trafficking in Persons Protocol makes specific reference to cooperation with organizations and elements of civil society in the context of victim support (art. 6, para. 3) and the prevention of trafficking (art. 9, para. 3). Paragraph 14 of the Vienna Declaration makes specific reference only to the collaboration of States "with one another" to eradicate the scourge of trafficking, but does not exclude the possibility of cooperation with non-state entities, where appropriate, in order to further that overall goal.

[22] The Trafficking in Persons Protocol does not deal specifically with the review of domestic measures, but article 32, paragraph 3 (d), of the Convention calls for the review of those elements of domestic programmes considered part of the implementation of the Convention and/or Protocol. Article 32 is applied to the Protocol, mutatis mutandis, by article 1, paragraph 2, of the Protocol.

[23] Regarding the use of education as a form of crime prevention, see article 9, paragraph 2, of the Trafficking in Persons Protocol, which refers to "mass media campaigns", and article 31, paragraph 5, of the Convention, which calls for the promotion of public awareness of the threat posed by transnational organized crime in all its forms.

[24] International measures will be developed and implemented in cooperation with members of the United Nations Crime Prevention and Criminal Justice Programme network, other international organizations dealing with law enforcement and migration issues and, where appropriate, relevant non-governmental organizations. The involvement of non-governmental organizations in national and international measures in areas such as prevention, training and the support of trafficking victims is called for in articles 6, paragraph 3, and 9, paragraph 3, of the Trafficking in Persons Protocol and in article 14, paragraph 2, of the Migrants Protocol.

[25] See the Migrants Protocol, article 16, paragraphs 1 and 2, dealing with basic rights and protection from violence, as well as articles 6, paragraph 3, and 16, paragraph 3, which call for measures relating to smuggling activities that endanger lives, safety or human dignity.

[26] The Migrants Protocol makes specific reference to cooperation with organizations and elements of civil society only in the context of the training of personnel (art. 14, para. 2). It also provides for optional cooperation with "relevant international organizations" in the context of the repatriation of smuggled migrants (art. 18, para. 6). Paragraph 14 of the Vienna Declaration makes specific reference only to the collaboration of States "with one another" to eradicate the scourge of migrant smuggling, but does not exclude the possibility of cooperation with non-state entities, where appropriate, in order to further that overall goal.

[27] The Protocol does not deal specifically with the review of domestic measures, but article 32, paragraph 3 (d), of the Convention calls for the review of those elements of domestic programmes considered part of the implementation of the Convention and/or Protocol. Article 32 is applied to the Protocol, mutatis mutandis, by article 1, paragraph 2, of the Protocol.

[28] See article 15 of the Migrants Protocol. Paragraph 1 of that article refers to measures to increase public awareness of criminal involvement and the risks posed to smuggled migrants and paragraph 2 specifically refers to the development of public information for potential migrants.

[29] International measures will be developed and implemented in cooperation with members of the United Nations Crime Prevention and Criminal Justice Programme network, other international organizations dealing with law enforcement and migration issues and, where appropriate, relevant non-governmental organizations. Article 14, paragraph 2, of the Migrants Protocol calls for the involvement of non-governmental organizations in training matters and article 18, paragraph 6, provides for cooperation with intergovernmental organizations in the repatriation of smuggled migrants.

[30] Many of the national and international actions in this area derive from the Firearms Protocol. The text of this instrument was finalized by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime at its twelfth session, held in Vienna from 26 February to 2 March 2001. Pursuant to General Assembly resolutions 53/111 and 55/25, the text has been submitted to the Assembly, but will not be considered by it until after the conclusion of the tenth session of the Commission. The text of the Protocol is contained in the report of the Ad Hoc Committee on its twelfth session (A/55/383/Add.2).

[31] The United Nations Convention against Transnational Organized Crime contains general provisions against transnational organized crime that are expected to assist in the effort to reduce or eradicate this problem. Countries must ratify the parent Convention before they can ratify any of the protocols thereto; pursuant to article 37 of the Convention and article 1 of each of the protocols, no protocol can take effect until the Convention itself is in force and no State can become a party to a protocol unless it is also a party to the Convention itself.

[32] In this paragraph, the words "related criminal activities" refer to activities that contribute to or are associated with illicit manufacturing or trafficking, but do not fall within the ambit of those terms as defined in article 3 of the Firearms Protocol. Examples of this might include such offences as falsifying or illicitly obliterating, removing or altering the markings on a firearm, established by article 5, paragraph 1 (c), of the Protocol, or laundering the proceeds of illicit firearms trafficking, which falls within the offence established by article 6 of the Convention.

[33] This will be done in cooperation with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network and other intergovernmental and relevant non-governmental organizations, as appropriate.

[34] Note that States must become parties to the Convention before they can ratify or accede to the Firearms Protocol. See footnote 17 above.

[35] See also the Naples Political Declaration and Global Action Plan against Organized Transnational Crime (A/49/748, annex, chap. I, sect. A).

[36] In particular, the 1988 Convention, article 3, paragraph 1; General Assembly resolutions S-20/2 (Political Declaration, annex, para. 15) and S-20/4 D; and United Nations Convention against Transnational Organized Crime, articles 6, 7 and 12-14.

[37] A list of all international conventions and protocols pertaining to international terrorism as well as the parties to such instruments may be found in the report of the Secretary-General of 26 July 2000 on measures to eliminate international terrorism (A/55/179 and Add.1).

[38] The Office of Legal Affairs is responsible for legal and normative matters regarding terrorism.

[39] This will be done in cooperation with the United Nations Interregional Crime and Justice Research Institute, other members of the United Nations Crime Prevention and Criminal Justice Programme network and other international organizations.

[40] For example, the International Centre for the Prevention of Crime in Montreal, which runs a Best Practice Bureau (see www.crime-prevention-intl.org).

[41] The special needs of female victims and witnesses are seen as particularly important because victims and witnesses generally have little input into the functioning of criminal justice systems, but other areas also raise concerns. In paragraph 12 of the Declaration, Member States also express concern about the special needs of women as practitioners, prisoners and offenders.

[42] The term "restorative justice" in this context refers to a general criminological concept and is not a term of art in the context of the legal or judicial system of any individual Member State. (See, for example, T. Marshal, "The evolution of restorative justice in Britain", *European Journal on Criminal Policy and Research*, No. 4, 1996, pp. 21-43.)

[43] See articles 24 and 25 of the Convention, providing for the protection of victims and witnesses generally, and articles 6, 7 and 8 of the Trafficking in Persons Protocol, which contain additional measures to protect victims of trafficking. Note that article 37 of the Convention requires that States must be parties to the Convention before they can ratify or accede to any of the Protocols.

[44] An example of such studies is contained in M.E.I. Brienen and E. H. Hogen, *Victims of Crime in 22 European Criminal Justice Systems*, 2000, WLP/Nijmegen, The Netherlands.

[45] This will be done in cooperation with the United Nations Interregional Crime and Justice Research Institute, other members of the United Nations Crime Prevention and Criminal Justice Programme network and other international organizations.

[46] See generally the United Nations Standard Minimum Rules for Non-custodial Measures (The Tokyo Rules) (General Assembly resolution 45/110, annex); *Human Rights and Pre-trial Detention: A Handbook of International Standards relating to Pre-Trial Detention* (United Nations publication, Sales No. E.94.XIV.6); Economic and Social Council resolutions, 1998/23 and 1999/26, Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/111, annex); resolution 45/110; Principles for the Protection of All Persons under any Form of Detention or Imprisonment (resolution 43/173, annex); and the Code of Conduct of Law Enforcement Officials (resolution 34/169, annex).

[47] See also *Human Rights and Pretrial Detention* ..., op. cit.

[48] Standard Minimum Rules for the Treatment of Prisoners (see *First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 22 August-3 September 1955: report prepared by the Secretariat* (United Nations publication, Sales No. 956.IV.4), annex I.A) and General Assembly resolutions 34/169, 43/173, annex, 45/110 and 45/111, annex.

[49] The subject matter of computer-related and high technology crime is the subject of a separate Report, which is also before the tenth session of the Commission. This Report calls for further measures, including more detailed study of the problem and the possible creation of a mandate for further work in this area, which if adopted by the Commission, will necessitate corresponding changes to this segment of the Action Plan.

[50] See also General Assembly resolution 55/63, in which the Assembly takes note of the value of measures to combat the criminal misuse of information technologies.

[51] This will be done in cooperation with the institutes of the United Nations Crime Prevention and Criminal Justice Programme network and other intergovernmental and relevant non-governmental organizations.

United Nations E/CN.15/2001/6

# Economic and Social Council

Distr.: General
4 April 2001

Original: English

**Commission on Crime Prevention and Criminal Justice**
Tenth session
Vienna, 8-17 May 2001
Item 5 of the provisional agenda*
**Follow-up to the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders**

## Review of the role, function, periodicity, duration and rules of procedure of the United Nations congresses on the prevention of crime and the treatment of offenders

**Note by the Secretariat**

## I. Background

1. In the statement of principles and programme of action of the United Nations crime prevention and criminal justice programme, annexed to its resolution 46/152 of 18 December 1991, entitled "Creation of an effective United Nations crime prevention and criminal justice programme", the General Assembly indicated that the United Nations congresses on the prevention of crime and the treatment of offenders, as a consultative body of the programme, should provide a forum for:

(a) The exchange of views between States, intergovernmental organizations, non-governmental organizations and individual experts representing various professions and disciplines;

(b) The exchange of experiences in research, law and policy development;

(c) The identification of emerging trends and issues in crime prevention and criminal justice;

(d) The provision of advice and comments to the Commission on Crime Prevention and Criminal Justice on selected matters submitted to it by the Commission;

* E/CN.15/2001/1.

V.01-82517 (E) 100401 110401

(e) The submission of suggestions, for the consideration of the Commission, regarding possible subjects for the programme of work.

2. In the statement of principles, the General Assembly called for the implementation of the following arrangements for the United Nations congresses:

(a) The congresses should be held every five years, for a period of between 5 and 10 working days;

(b) The Commission should select precisely defined topics for the congresses in order to ensure a focused and productive discussion;

(c) Quinquennial regional meetings should be held under the guidance of the Commission on issues related to the agenda of the Commission or of the congresses, or on any other matters, except when a region did not consider it necessary to hold such a meeting. The United Nations institutes for the prevention of crime and the treatment of offenders should be fully involved, as appropriate, in the organization of those meetings. The Commission should give due consideration to the need to finance such meetings, in particular in developing regions, through the regular budget of the United Nations;

(d) Action-oriented research workshops on topics selected by the Commission, as part of the programme of a congress, and ancillary meetings associated with the congresses should be encouraged.

## II. Follow-up to the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders: draft Plan of Action for the Implementation during the period 2001-2005 of the Vienna Declaration

3. In its resolution 54/125 of 17 December 1999, the General Assembly requested the Tenth Congress to submit, through the Commission and the Economic and Social Council, its declaration to the Millennium Assembly for consideration and action, and requested the Commission to give priority attention at its ninth session to the conclusions and recommendations of the Tenth Congress, with a view to recommending, through the Council, appropriate follow-up by the Assembly at its fifty-fifth session.

4. In its resolution 55/59 of 4 December 2000, the General Assembly endorsed the Vienna Declaration on Crime and Justice: Meeting the Challenges of the Twenty-first Century, adopted by the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders.

5. In its resolution 55/60 of 4 December 2000, the General Assembly requested the Commission to continue at its tenth session its consideration of the findings and recommendations embodied in the Vienna Declaration and, as appropriate, the report of the Tenth Congress,[1] and to take appropriate action; and requested the Secretary-General to prepare, in consultation with Member States, draft plans of action to include specific measures for the implementation of and follow-up to the commitments undertaken in the Declaration for consideration and action by the Commission at its tenth session.

6. In compliance with that request, the Commission has before it a report of the Secretary-General containing draft Plans of Action for the Implementation during the period 2001-2005 of the Vienna Declaration which incorporates the contributions of Governments following consultations during the inter-sessional meetings of the Commission (E/CN.15/2001/5).

## III. Rules of procedure for the United Nations congresses

7. The attention of the Commission is drawn to rule 63 of the provisional rules of procedure for United Nations congresses on the prevention of crime and the treatment of offenders, which states: "After the completion of each Congress, the Commission on Crime Prevention and Criminal Justice shall make appropriate recommendations to the Economic and Social Council for such amendments to the present rules as it may deem necessary." The Commission may wish to recommend such amendments in the light of its consideration of the organization of the eleventh congress, as appropriate.

## IV. Review of the role, function, periodicity and duration of the United Nations congresses

8. In its resolution 53/110 of 9 December 1998, entitled "Preparations for the Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders", the General Assembly decided that the Commission on Crime Prevention and Criminal Justice, at its tenth session, should undertake a review of the role, function, periodicity and duration of the United Nations congresses on the prevention of crime and the treatment of offenders, including the issue of regional preparatory meetings.

9. At its ninth session, the Commission on Crime Prevention and Criminal Justice considered, under agenda item 5, the recommendations of the Tenth Congress. The following excerpts of the report of the Commission[2] reflect the views expressed on the Tenth Congress:

> "18. ... While recognizing the importance and relevance of the United Nations congresses on the prevention of crime and the treatment of offenders, participants noted the need to review their organization, structure and agenda, in particular their periodicity, substantive and thematic focus, format and title, with a view to providing greater opportunity for in-depth discussion on selected themes of interest in order to achieve better results at future congresses. It was recalled that, at its forthcoming tenth session, the Commission should have a comprehensive discussion on how future congresses were to be organized. The Tenth Congress had demonstrated the usefulness of the congresses; the high-level segment, the workshops and the ancillary meetings should have more important roles to play in future congresses. Participants emphasized the contribution made by individual experts and non-governmental organizations at the workshops and ancillary meetings held during the Tenth Congress, noting that Governments should participate more actively in those meetings at future congresses, which should

achieve a balance in participation between States, regions and types of legal system.

...

"20. The representative of Mexico reiterated the offer made by his Government at the Tenth Congress to host the next congress. The Commission would examine, at its tenth session, the title, format and themes of future congresses. The observer for Guatemala, speaking on behalf of the Group of Latin American and Caribbean States, supported the offer made by the Government of Mexico."

10. During the Tenth Congress, the Government of Thailand also offered to act as host to the eleventh congress.

## V. Organization of the Tenth Congress

11. The Commission on Crime Prevention and Criminal Justice served as the preparatory body of the Tenth Congress. Pursuant to General Assembly resolution 52/91 of 12 December 1997, four workshops on the following issues were held within the framework of the Congress: combating corruption; crimes related to the computer network; community involvement in crime prevention; and women in the criminal justice system.

12. In its resolution 53/110 of 9 December 1998, the General Assembly welcomed the offer of the institutes constituting the United Nations Crime Prevention and Criminal Justice Programme network to assist in preparation of the workshops. Four regional preparatory meetings for the Tenth Congress were held, in Bangkok from 2 to 4 November, in Beirut from 11 to 13 November and in Kampala from 7 to 9 December 1998, and in San José from 22 to 24 February 1999.

13. One of the innovative features of the Tenth Congress was the convening of a high-level segment on 14 and 15 April 2000 to allow heads of State or Government or government ministers to focus on the main theme of the Congress. Seventy-six high-level representatives addressed the high-level segment. The organization of work of the Congress included one session of pre-congress consultations, the establishment of Committees I and II, which shared agenda items with the plenary meetings and the high-level segment. The Congress also established, in Committee I, an open-ended working group to finalize the preliminary draft of the Vienna Declaration. Another innovation of the Tenth Congress was the convening of 35 ancillary meetings, attended, for the most part, by non-governmental organizations, individual experts and intergovernmental organizations. Over 1,397 participants attended the ancillary meetings.

## VI. Action by the Commission

14. The Commission has before it the draft Plans of Action for the Implementation during the period 2001-2005 of the Vienna Declaration (E/CN.15/2001/5) for its consideration and adoption.

15. The Commission should review the role, function, periodicity and duration of the United Nations congresses, including the issue of regional preparatory meetings.

16. The Commission should review the rules of procedure of the United Nations congresses and make such recommendations to the Economic and Social Council as it may deem necessary.

*Notes*

[1] See *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10-17 April 2000: report prepared by the Secretariat* (United Nations publication, Sales No. E.00.IV.8).

[2] *Official Records of the Economic and Social Council, 2000, Supplement No. 10* (E/2000/30).

United Nations E/CN.15/2001/7

# Economic and Social Council

Distr.: General
26 March 2001

Original: English

**Commission on Crime Prevention and Criminal Justice**
Tenth session
Vienna, 8-17 May 2001
Item 6 of the provisional agenda*
**Work of the Centre for International Crime Prevention**

## Projects involving international technical assistance and training in the field of crime prevention and criminal justice

### Report of the Secretary-General

*Summary*

The present report has been prepared in response to Economic and Social Council resolution 1999/24 of 28 July 1999. It contains information received from Member States and relevant international organizations and other entities on their projects involving international technical assistance and training in the field of crime prevention and criminal justice. It also contains information on the viability and usefulness of expanding globally a centralized clearing house database for international training and technical assistance projects in the field of crime prevention and criminal justice, such as the one piloted for central and eastern Europe by the European Institute for Crime Prevention and Control, affiliated to the United Nations. The number of responses received could be regarded as adequate, but their contents are inadequate for the purpose of considering the establishment of an information clearing house for international projects involving technical assistance and training in the field of crime prevention and criminal justice. The main conclusions of the report are that the establishment of a centralized clearing house for such projects would not achieve the coordination objective intended, as the level of responses and usage would prove too low, unless significant resources were invested to sustain such an effort. In view of this, the report concludes that an attempt to establish such an effort as an ongoing and standing activity would amount to a misallocation of resources.

* E/CN.15/2001/1.

V.01-82126 (E) 050401 060401

# I. Introduction

1. The present report is submitted in response to Economic and Social Council resolution 1999/24 of 28 July 1999, in which the Council requested the Secretary-General to collect information from Member States and relevant international organizations and other entities on their projects involving international technical assistance and training in the field of crime prevention and criminal justice; recommended that he explore the possibility of expanding that initiative as a standing activity; and requested him to report on the functioning of the pilot phase to the Commission on Crime Prevention and Criminal Justice at its tenth session.

2. The process of gathering information on projects by Member States and relevant international organizations and other entities on their projects involving international technical assistance and training in the field of crime prevention and criminal justice was conducted by means of a questionnaire developed and administered by the Centre for International Crime Prevention pursuant to resolution 1999/24. The Centre consulted with the European Institute for Crime Prevention and Control, affiliated to the United Nations (HEUNI), on the operation of its regional database for eastern and central Europe on crime prevention and criminal justice projects and its related data-gathering instrument, which was used as point of reference for the development of the questionnaire administered by the Centre.

3. The report summarizes and analyses the information received, focusing on its usefulness as an instrument for the possible coordination of international technical assistance and training in the field of crime prevention and criminal justice. It also contains an assessment of the feasibility and possible usefulness of expanding globally and/or promoting the establishment of regional centralized clearing house databases for international training and technical assistance projects in the field of crime prevention and criminal justice. The report also contains a chapter prepared by HEUNI reporting on the functioning of the pilot HEUNI Database on International Projects in Crime Prevention and Criminal Justice in Central and Eastern Europe, established pursuant to Economic and Social Council resolution 1995/12 of 24 July 1995 to assist Member States in coordinating their international assistance.

# II. Analysis of the responses

4. The Centre for International Crime Prevention received 38 replies to the questionnaire distributed pursuant to resolution 1999/24, broken down as follows: 11 responses (29 per cent) from Member States, 10 (29 per cent) from United Nations entities and specialized agencies, 2 (5 per cent) from non-United Nations intergovernmental organizations, 4 (11 per cent) from members of the United Nations Crime Prevention and Criminal Justice Programme network and 10 (26 per cent) from non-governmental organizations and other entities. Of the 38 replies received, one, from a Member State, reported having appointed a focal point for international technical cooperation projects in the field of crime prevention and criminal justice and 9 respondents (24 per cent), 8 of which were Member States, indicated that they did use the instrument distributed by the Centre.

5. While the level of response can be considered acceptable, an analysis of the contents of the responses provides the following scenario. Of the 38 responses received, 4 (11 per cent) could be described as partly relevant, meaning that they dealt with one to three items covered in the instrument, and 8 (22 per cent) could be considered relevant, meaning that each individual response dealt with three or more items contained in the instrument. However, the fact that only nine responses indicated that their authors used the instrument developed by the Centre renders those responses of limited value for analytical, comparative or statistical purposes, or for the purpose of establishing a consolidated database for coordination of and information on international technical cooperation projects in the field of crime prevention and criminal justice. Their value is further reduced by the fact that the data provided have not undergone a process of validation and the responses have been taken at face value and without any supporting documentation.

6. One respondent out of the 38, a Member State, reported having allocated a specific budget for technical assistance in the field. Together with a further respondent, they described themselves as "donors". A

total of five respondents can be described as recipients of international technical cooperation in the crime prevention and criminal justice fields. One Member State reported having neither received nor provided any international technical cooperation in the field of crime prevention and criminal justice, while a further four Member States did not provide an answer on this item.

7. The 11 responses received from Member States were distributed as follows in terms of geographical regions: 2 from Africa, 4 from Europe, 2 from the Latin American and Caribbean region and 2 from the region of Asia and the Pacific.

8. One country in Europe reported having received assistance from the European Union and the Council of Europe in the areas of combating organized crime and the fight against corruption. The target groups or areas of the project included the courts, customs, police and security, prosecution and witness protection. The form of the assistance included study tours and training and the fields covered were corruption, crime detection, crime prevention strategies, criminal information collection and analysis, customs, drug-related crime, economic crime, evidence-gathering, extradition, financial investigation, institutional structures, institution-building, investigation materials, international standards and human rights, juvenile justice, money-laundering investigations, mutual legal assistance and organized crime. The same country reported having received assistance from the United Nations Development Programme (UNDP) for a juvenile justice programme aimed at the specialization of the courts and the Bar. Its target groups were courts and lawyers and the forms of assistance included the provision of expertise and study tours and training covering the fields of corrections and rehabilitation, court procedures, criminal and procedural legislation, international standards and human rights. Another juvenile justice project, also funded by UNDP, aimed at the reorganization of the police. It targeted police and security, research, strategic planning and victim assistance. The forms of assistance included the provision of equipment, expertise, study tours and training. A completed UNDP-funded project had supported the establishment of a centre for crime prevention, its forms of assistance including the provision of equipment, expertise, study tours and training. A further project in the juvenile justice area, funded by UNDP, had as its target groups/areas courts, employment of inmates, lawyers, police and security, prison staff training, prisons and aftercare, prosecution, research, strategic planning and victim assistance and the forms of assistance included the provision of equipment, expertise, study tours and training. A UNDP project concluded in 1999 had addressed the development of a conceptual and legal base for juvenile and criminal justice reform.

9. One country in Latin America reported that it had received technical cooperation in crime prevention and criminal justice through three projects. One project concerned mitigating economic difficulties related to the process of structural economic adjustment, the second the penitentiary reform programme and the third strengthening the work of the Commission of Pardons and commutation of sentences for persons sentenced for crimes of terrorism and treason. The donors were reported to be Canada and the Japanese International Cooperation Agency. The target groups/areas were prison staff training and prisons and aftercare and assistance related to the provision of training and equipment, while the fields covered were international cooperation and terrorism.

10. A country in central Europe reported that data on international technical cooperation in crime prevention and criminal justice was not systematically maintained. However, it reported that technical cooperation had been received from Canada, France, Germany, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and the United States of America, and from the United Nations, the European Union and the Council of Europe. Project target groups/areas were customs, police and security and strategic planning and assistance had been in the form of provision of equipment, expertise, study tours and training. The fields of project assistance were border control, community policing, computer hardware and software, corruption, crime detection, crime prevention strategies, criminal information collection and analysis, criminal investigations, criminalistics and forensics, cross-border police cooperation, customs, development/implementation of prevention programmes, domestic violence, drug-related crime, economic crime, enforcement practices, ethnic and hate crimes, financial investigations, illegal trafficking, international standards and human rights, juvenile crime, juvenile justice, legal education and public education, legislation, legislative drafting and implementation, literature, management, management

training, money-laundering investigation, organized crime, prevention, sexual crime, terrorism and trafficking in persons.

11. One western European country reported having provided international technical cooperation in crime prevention and criminal justice to some 20 projects per annum. However, insufficient time between the receipt of the questionnaire and the deadline for the provision of data to the Centre prevented that country from providing more detailed information on the projects.

12. One country in Central America reported receiving assistance from the Danish Centre for Human Rights, whose assistance had made possible the development of a strategic plan for the Ministry of the Interior and a programme to improve the security of citizens. The Inter-American Development Bank had funded a programme of technical assistance directed at the Ministry of the Interior, the judicature, the Institute of Public Penal Defence and the Office of the Public Prosecutor. In addition, through the strategic plan of the Ministry of the Interior, assistance had been provided to the prison system, in particular for the establishment, in 2002, of a school for penitentiary studies. The Office of the United Nations High Commissioner for Human Rights had provided training in human rights for the National Civil Police and United Nations verification mission in the country had supported the programme for the strengthening of the National Civil Police. The response did not provide specific information on target groups or types or fields of assistance.

13. One country in Asia, a provider of international cooperation in crime prevention and criminal justice, was the only respondent that reported having a specific budget for international assistance in the field, from which it had funded 13 projects in 2000. The areas covered by the projects were crime prevention (treatment of offenders), administration of criminal justice, a seminar in crime prevention for senior government officials, corruption control in criminal justice, juvenile delinquent treatment systems, a special seminar for senior criminal officials, community policing, a seminar on firearms control, transfer of criminal identification techniques, a seminar on organized crime in the Asian region, a seminar on international terrorism and technical measures against cyber-crime. All the projects were of short duration—five projects had had a duration of between three weeks and two months—and had taken the form of provision of expertise, study tours and training. The other seven projects had taken the form of seminars. None of the projects had entailed the provision of equipment. The following regions were listed as recipients of cooperation from the country in question: Africa, Asia and the Pacific, eastern Europe and Latin America. A reply was also received from the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, which provided identical information on 6 of the 13 projects reported by the Asian country.

14. One country in Africa indicated that it had received no international assistance in crime prevention and criminal justice but would welcome such assistance and training in any of the fields covered in the questionnaire.

15. A country in Asia reported that its police had received assistance from counterpart agencies in Australia and Japan and from the Office for Drug Control and Crime Prevention of the Secretariat to cover participation at international conferences, seminars and workshops in crime prevention and criminal justice. It also reported having received international technical assistance through five United Nations International Drug Control Programme regional projects in the field of drug control. Those projects had covered the development of drug control operational procedures, the gathering and exchanging of drug law enforcement information, the enhancement of drug law enforcement training, the strengthening of judicial and prosecutorial capacity and the development of cross-border law enforcement in east Asia.

16. One country in central Europe reported that it had received no international technical cooperation in the crime prevention and criminal justice fields.

17. In summary, there were 11 responses to the questionnaire that could be regarded as either relevant or partly relevant. Among those, 24 projects were listed. Sixteen projects, or 67 per cent of the projects, cited police and security as the target of the projects, followed by 10 citations for strategic planning (42 per cent) and the courts with 8 mentions (33 per cent). The most frequently cited form of assistance was the provision of expertise and the most often cited fields of project assistance were international cooperation and international standards and human rights, with 13 of

the 24 projects targeting those fields, followed by criminal information collection and analysis and criminal investigations, with 11 citations each. Nine projects dealt with organized crime, four targeted corruption and a further four trafficking in persons. None of the projects covered any of the following available fields: arrest techniques, environmental crime, logistics, medical and health issues, medical equipment, tactical information systems or transport vehicles. The table below provides a detailed breakdown of the project coverage:

| | *Number of projects* | *Percentage* |
|---|---|---|
| **Project target group(s)/area(s)** | | |
| Courts | 8 | 33 |
| Customs | 5 | 21 |
| Employment of inmates | 1 | 4 |
| Lawyers | 4 | 17 |
| Police and security | 16 | 67 |
| Prison staff training | 6 | 25 |
| Prisons and aftercare | 7 | 29 |
| Prosecution | 7 | 29 |
| Research | 4 | 17 |
| Strategic planning | 10 | 42 |
| Victim assistance | 6 | 25 |
| Witness protection | 4 | 17 |
| Other | 1 | 4 |
| **Forms of assistance** | | |
| Equipment | 5 | 21 |
| Expertise | 14 | 58 |
| Study tours | 12 | 50 |
| Training | 14 | 58 |
| Other | 6 | 25 |
| **Field(s) of project assistance** | | |
| Archival information/storage systems | 2 | 8 |
| Arrest techniques | - | - |
| Border control | 1 | 4 |
| Buildings and construction | 1 | 4 |
| Case management/case management systems | 7 | 29 |
| Communications | 2 | 8 |
| Community policing | 6 | 25 |
| Computer hardware and software | 5 | 21 |
| Computer training | 2 | 8 |
| Corrections and rehabilitation | 7 | 29 |
| Corruption | 8 | 33 |
| Court procedures | 7 | 29 |
| Crime detection | 10 | 42 |
| Crime prevention strategies | 11 | 46 |
| Criminal and procedural legislation | 9 | 38 |
| Criminal information collection and analysis | 11 | 46 |
| Criminal investigations | 11 | 46 |

| | *Number of projects* | *Percentage* |
|---|---|---|
| Criminalistics and forensics | 5 | 21 |
| Cross-border police cooperation | 9 | 38 |
| Customs | 2 | 8 |
| Data management and statistics | 4 | 17 |
| Development/implementation of corrections/rehabilitation | 6 | 25 |
| Development/implementation of prevention programmes | 9 | 38 |
| Development of information networks | 5 | 21 |
| Domestic violence | 2 | 8 |
| Drug-related crime | 8 | 33 |
| Economic crime | 6 | 25 |
| Enforcement practices | 6 | 25 |
| Environmental crime | - | - |
| Ethnic and hate crimes | 1 | 4 |
| Evidence-gathering | 6 | 25 |
| Extradition | 5 | 21 |
| Financial investigations | 7 | 29 |
| Formulation of criminal policy | 6 | 25 |
| Illegal trafficking | 6 | 25 |
| Information analysis systems | 8 | 33 |
| Institutional structures | 9 | 38 |
| Institution-building | 9 | 38 |
| International cooperation | 13 | 54 |
| International standards and human rights | 13 | 54 |
| Interviewing and interrogation techniques | 3 | 13 |
| Investigation materials | 5 | 21 |
| Judicial areas | 7 | 29 |
| Juvenile crime | 9 | 38 |
| Juvenile justice | 9 | 38 |
| Legal education and public education | 3 | 13 |
| Legislation | 8 | 33 |
| Legislative drafting and implementation | 3 | 13 |
| Literature | 4 | 17 |
| Logistics | - | - |
| Management | 2 | 8 |
| Management training | 7 | 29 |
| Medical and health issues | - | - |
| Medical equipment | - | - |
| Money-laundering investigation | 8 | 33 |
| Mutual legal assistance | 7 | 29 |
| Need assessment and programming new fields of assistance | 3 | 13 |
| Non-custodial sanctions | 5 | 21 |
| Operational enforcement activities | 3 | 13 |
| Organized crime | 9 | 38 |
| Pre-trial procedures | 7 | 29 |
| Prevention | 9 | 38 |
| Property crime | 5 | 21 |

| | *Number of projects* | *Percentage* |
|---|---|---|
| Research and analysis | 5 | 21 |
| Search techniques | 2 | 8 |
| Sentencing | 5 | 21 |
| Sexual crime | 3 | 13 |
| Smuggling of migrants | 2 | 8 |
| Statistical systems | 3 | 13 |
| Study tours | 10 | 42 |
| Surveillance and surveillance equipment | 1 | 4 |
| Tactical information systems | - | - |
| Terrorism | 5 | 21 |
| Trafficking in persons | 4 | 17 |
| Train the trainers | 1 | 4 |
| Transport vehicles | - | - |
| Violent crime | 4 | 17 |
| Vocational training | 1 | 4 |
| Other | - | - |

18. Several United Nations entities reported conducting activities that either related to or had an impact on crime prevention and criminal justice. The Department for Disarmament Affairs of the Secretariat reported that its weapons collection and disarmament, demobilization and reintegration programmes aimed at reducing the number of and access to such weapons in a given community had had a positive income not only on crime, but also on political and social stability, peace and development. The Economic and Social Commission for Asia and the Pacific (ESCAP) reported that in 1998 it had established a directory of United Nations projects and activities on trafficking in women and children in Asia and that all United Nations agencies had contributed to the directory, which contained summary information on projects and activities. The directory was being updated and a copy would be provided to the Office for Drug Control and Crime Prevention. ESCAP also reported that in 1997-1998 it had implemented a project on the community-based approach to the prevention of juvenile delinquency. The project provided assistance to the following countries: Bangladesh, Indonesia, Myanmar, Thailand and Viet Nam. The country reports findings had been published in a 1999 ESCAP publication entitled "Community-based Prevention of Juvenile Delinquency". In 2000, ESCAP had sponsored a regional seminar on assessment and classification of adult offenders and juvenile delinquents. The seminar had highlighted the need to strengthen and develop appropriate treatment techniques and rehabilitation programmes in line with United Nations standards and norms and the need to formulate guidelines based on standard classification systems by type of offence or delinquent behaviour and to assess behavioural tendencies as determined by personality traits and the offender's social background. The Office of the United Nations High Commissioner for Human Rights reported conducting a wide range of activities aimed at strengthening human rights in the administration of justice, noting that further information was contained in a forthcoming analytical report of the High Commissioner to the Commission of Human Rights on the implementation of the programme of advisory services and technical cooperation in the field of human rights (E/CN.4/2001/104). The Office reported being involved in a "right to security" project in Nicaragua, implemented in cooperation with the Latin American Institute for the Prevention of Crime and the Treatment of Offenders. The Department of Economic and Social Affairs of the Secretariat reported on its activities to enhance the ethical conduct of public officials and to prevent corruption. The Department had supported the development of a charter for public service in Africa and was implementing a project to assist Governments in Africa to improve the ethics and conduct of the public sector. It also held regular workshops to

promote compliance with the Convention on the Elimination of All Forms of Discrimination against Women (General Assembly resolution 34/180, annex). Together with UNDP and several donors, the Department was involved in the implementation of a programme component to support the implementation in west Africa of the Moratorium of the Economic Community of West African States on the Importation, Exportation and Manufacture of Light Weapons.

19. Among non-United Nations intergovernmental entities, the Organization for Security and Cooperation in Europe (OSCE) reported that the OSCE mission in Kosovo had been entrusted with the training of a new Kosovo police service within the Kosovo police service schools and that 3,400 people had completed the police training. It also reported that its Office for Democratic Institutions and Human Rights was implementing projects relevant to crime prevention and criminal justice, principally in the fields of rule of law, migration/freedom of movement and against trafficking in persons. The rule of law programme focuses on improving the functioning of the criminal justice system to prevent the violation of human rights and to introduce greater transparency in the administration of justice. Focus areas are prison reform, training of judges, defence lawyers and prosecutors in the implementation of international standards, police training on human rights, prevention of torture and the review of criminal legislation, including its compliance with international standards. OSCE implements a project, with the International Organization for Migration (IOM), for the development of migration legislation in the newly independent States. The project is intended to stimulate cross-border cooperation in the legislative field in the countries of the former Soviet Union at the regional and subregional levels. OSCE reported that the Stability Pact Task Force on Trafficking in Human Beings promoted regional cooperation, maintained an inventory of anti-trafficking activities in the Balkans, coordinated anti-trafficking work by various international agencies and national actors and lobbied for political support and political commitment. It had also proposed setting up a regional clearing house for activities against trafficking. Under the Stability Pact, the Council of Europe was coordinating legislative review and reform. The Council of Europe had proposed a project on criminal law reform on trafficking in human beings in south-eastern Europe for 2001. Other projects by the Office were the Stability Pact legislative review project, whose aim was to determine relevant legal materials for legislative reform aimed at prosecuting trafficking and protecting victims, as well as drafting guidelines outlining what should be addressed when proposing legislative reform. In Kosovo, a project for legal aid for victims of trafficking focused on training victims' assistants and lawyers in advocacy, appeal, legal argumentation and defence. In coordination with IOM, OSCE was assisting the Government of Ukraine in its anti-trafficking initiatives, including a comparative legislative review being undertaken with a view to making improvements in the new draft criminal code relevant to combating trafficking.

20. Among non-governmental organizations, the following provided information that may be considered of note. Victim Support (UK) reported that the European Forum for Victim Services had set up a committee to look at the specific issue of training for people working with victims of crime. While the committee had not yet met, it was hoped that it would develop some training standards and a database of materials for both professionals and volunteers in victims' services. Europe 2000 (Belgium), a non-governmental organization holding consultative status with the Economic and Social Council, forwarded a copy of its report covering its various conferences between 1989 and 2000. The Asia Crime Prevention Foundation (ACPF), a non-governmental organization holding consultative status with the Economic and Social Council, reported that in 2001-2002 it planned to organize three working groups on corruption, alleviation of extreme poverty and follow-up to the eighth ACPF World Conference. It also reported that it maintained a web site (www.acpf.org) that contained information to assist criminal justice practitioners. The African Peace Network (Ghana), another non-governmental organization holding consultative status with the Economic and Social Council, reported on various advocacy activities in crime prevention, including educational visits to prisons and schools. The American Correctional Association (USA) reported involvement in all facets of corrections, including adult and juvenile services, community correction, probation and parole and jails.

21. The International Institute of Higher Studies in Criminal Sciences, a member of the United Nations Crime Prevention and Criminal Justice Programme network, reported on a series of seminars, conferences

and training events that it had organized in 1999-2000. Those events covered, inter alia, the issue of lay participation in criminal trials in the twenty-first century, strengthening investigative techniques against organized crime, a series of training courses for Albanian and Egyptian justice officials on international cooperation in criminal matters, a colloquium of young penalists on international criminal law, a seminar of Arab experts on the problem of terrorism and the application of the Arab Convention against Terrorism and a workshop on organized crime in Europe. In the context of the Preparatory Commission for the International Criminal Court, the Institute had conducted informal meetings on rules of procedure and evidence and elements of crime, as well as briefing sessions for delegates on ratification and implementation of the Convention.

22. The Centre for International Crime Prevention had supported projects with a total budget value of $4,040,694 in 2000. A list of the projects and detailed substantive information was contained in the report of the Executive Director on the work of the Centre (E/CN.15/2001/9). Technical cooperation activities focused on combating organized crime, trafficking in human beings and corruption. Considerable progress had been made in 2000 in initiating and advancing the implementation of concrete projects at the regional and country levels within the framework of the Centre's global programmes on the thematic fields mentioned. Ad hoc projects in juvenile justice and crime prevention had also been supported. In Lebanon, a project to strengthen the legislative and institutional capacity for juvenile justice was being implemented. A project proposal on juvenile justice for Egypt had been drawn up. The Centre had also assisted the South Africa Police Service to formulate two pilot projects, with UNDP, to promote crime prevention in schools and the community and in rural areas. The Centre had also initiated preparatory work on a new programme activity in crime prevention to promote a culture of lawfulness and to assist national and local governments in protecting vulnerable groups at risk of being recruited by organized crime, in particular through educational and civic programmes. Synergies between the Centre and the United Nations International Drug Control Programme, the two pillars of the Office for Drug Control and Crime Prevention, continued to be sought. Joint missions had been undertaken with the United Nations International Drug Control Programme, which included advisory, fact-finding and project formulation missions to the Dominican Republic, Egypt, Guatemala and west Africa.

# III. Report of the European Institute for Crime Prevention and Control, affiliated to the United Nations, on the functioning of its Database on International Projects in Crime Prevention and Criminal Justice in Central and Eastern Europe

## A. Background

23. With the fundamental changes in central and eastern Europe around 1990, a number of Governments, individual agencies and organizations sought to provide assistance in the restructuring of the criminal justice system in the different countries. The flow of assistance was not without its problems. For example, at times there was considerable overlap among projects, which may have detracted from their effectiveness, and gaps were also present.

24. In early 1992, the (then) Helsinki Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), began to gather information on international projects in the field of crime prevention and criminal justice directed to central and eastern Europe. On 11 and 12 February 1993, the (then) Crime Prevention and Criminal Justice Branch of the Secretariat and HEUNI jointly organized an informal meeting of representatives of Member States, organizations and other entities involved in assisting crime prevention and criminal justice agencies and programmes in central and eastern Europe. At that meeting, an overall idea of a clearing house for such projects was launched and, in 1995, the HEUNI Database on International Projects in Crime Prevention and Criminal Justice in Central and Eastern European Countries was established pursuant to Economic and Social Council resolution 1995/12. The HEUNI database was also intended to serve as a pilot project for similar regional databases elsewhere. The experimental pilot phase of the project was financed by extrabudgetary funds provided by the Department of State of the United States of America.

## B. Database design

25. The database was designed to assist Member States in planning and coordinating their international assistance in the field of crime prevention and criminal justice to countries with economies in transition in central and eastern Europe. The database was specially designed to assist policy makers in improved allocation of resources, the identification of overlaps and gaps in assistance and the identification of opportunities for collaborative action and potential partners.

26. The database was developed in cooperation with other organizations, such as the United Nations International Drug Control Programme, the Organisation for Economic Cooperation and Development and UNDP. At first, the software used by the United Nations International Drug Control Programme database was tailored for the Institute's purposes to ensure complementary coverage of the field and to avoid multiplicity of data-collecting efforts.

27. The HEUNI database provides interested Governments and other entities with information on international assistance, classified by area of interest, by form of assistance, by donor country and by beneficiary country.

28. The use of the tailored United Nations International Drug Control Programme software involved some practical difficulties, arising mainly from the different ways projects were described. Accordingly, the format and software of the HEUNI database were changed, in cooperation with the National Institute of Justice of the United States and the Rule of Law Foundation, to respond to the specific needs of HEUNI.

29. Furthermore, it became evident that the database would serve users better in electronic format and, accordingly, changes were made such that the HEUNI database has been available, with certain limitations, free of charge to all Internet users since early 1998. At all times, however, it has been clearly indicated that information can also be given directly to the database manager and in any format suitable for the provider of information, be it in writing or in electronic format.

## C. Implementation of the experimental phase

30. The establishment of the HEUNI database involved three components, collection of the data, processing of the data at HEUNI and dissemination of the data.

### 1. Collection of the data

31. During the first phase after the establishment of the database, an English-language questionnaire was sent to governmental and non-governmental agencies in all European and North American countries requesting information on their international projects that benefited at least one central and eastern European country in the field of crime prevention and criminal justice and that were in progress on or after 1 January 1995. In addition, HEUNI collected information directly from several agencies and organizations (such as UNDP, the Council of Europe and the Central and East European Law Initiative of the American Bar Association).

32. The response rate from the donor countries was deemed to be satisfactory. Various agencies in 12 countries (Austria, Canada, Denmark, Finland, Italy, Norway, Sweden, Switzerland, the Netherlands, Turkey, the United Kingdom and the United States) provided information. On the other hand, some major donors did not provide any information on their bilateral projects and these could therefore not be reflected in the database. Both the United Nations International Drug Control Programme and HEUNI sought to make clear that the two data-gathering exercises should be seen as complementary, but still one major donor country indicated as the reason for not supplying data to HEUNI the perceived overlap between the two databases. The response rate from the recipient countries was very low. HEUNI was able to identify only a few projects on the basis of the information received.

33. After the HEUNI database became available via the Internet, another major request for information was sent in May 1998 to 47 governmental agencies in 22 countries in Europe and North America as well as to 17 governmental and non-governmental organizations. Based on the previous experience on the reluctance of the recipients to respond, only donors were approached. They were encouraged to give information

in the form that would have been easiest for them to provide, such as in the form of already published work programmes, annual reports or available individual project descriptions. In that way, the data would also be more reliable, as the data to be entered could be taken from a clear project description instead of from what are often very brief or unclear responses to a questionnaire. Seven governmental agencies (from Belgium, Canada, Ireland, Spain, Sweden, the United Kingdom and the United States) and six organizations replied. Useful and processable information on projects was received from one agency and one organization.

### 2. Processing the data at HEUNI

34. By mid-1997, some 420 assistance entries had been entered into the HEUNI database, representing about two thirds of the projects noted in the responses received. Approximately one third of the potential entries remained unentered owing to the technical difficulties referred to and this led later to changes in the database format. On the basis of the second larger request, no entries were made.

### 3. Dissemination of the data

35. From the outset, HEUNI sought to publicize the availability to all interested Governments and entities of the information currently available free of charge through the Internet, with some restrictions concerning detailed financial and other data.

36. In October 1996, HEUNI circulated a brochure and a guide on the database, providing examples of the data available and inviting the addressees to provide further information on a regular basis. However, only a few updates were sent to HEUNI, although several positive expressions of interest were received. The Institute has informed donors on several different occasions about the database and invited them to use it, but has not received any new information nor updates in spite of its many efforts, nor has the database been used directly by any donor.

## D. The need for a national focal point

37. Overall, it appears that problems with the coordination of international projects are not limited to the international level. Even within a country there is often no central focal point for collecting information on international projects in the field of crime prevention and criminal justice (or legal cooperation in general). Many projects are initiated and implemented by individual agencies or organizations and the ministry of justice or the ministry of foreign affairs, for example, is not necessarily aware of such projects.

38. Some countries, such as Germany, the Netherlands and the United States, have taken steps to improve national coordination. Their efforts are deserving of the attention of and possible replication by other donor countries.

39. In connection with the 1998 inquiry about projects, HEUNI sent out a questionnaire in order to obtain information on the existence of special sources of information within agencies or organizations, on the existence of central national focal points and on whether there was information on such sources elsewhere. Useful information on data sources, both electronic and stand-alone, was received from four agencies and two organizations. In addition, one Government expressed strong interest in the HEUNI database and indicated its interest in using it for a national focal point on information about assistance. However, the plan was never implemented.

## E. Conclusions concerning the database

### 1. Availability of data

40. The response rate was satisfactory at first, although some major countries that are presumably involved in international cooperation did not provide data. Only a few responses were received from beneficiary agencies. More recently, interest in providing data has been less than satisfactory.

41. One conclusion is that the motivation to provide data to an outside database appears in general to be low. It may require extra work in gathering the information from different sources, perhaps modifying it and, in many cases, also translating it into a foreign language. Here, the question of an intra-agency database, whether electronic, stand-alone or non-computerized, could probably play a crucial role in facilitating the transferral of data.

42. The easy availability of information on concluded, ongoing or planned projects would accordingly enhance the need for and usefulness of a

national centralized focal point where decision makers could trace information without delay or difficulty and, accordingly, plan their projects to better respond to the needs. Furthermore, should that information be available in some form internationally, this would facilitate efforts in planning and implementing technical assistance in general.

43. For this reason, the HEUNI database was designed to provide contact information about other related sources and to allow linkage with other electronic databases. Consequently, information on a single project does not need to be moved from one database to another. Instead, access to the original source of information can be reached through one centralized point, the HEUNI database.

### 2. Quality of the data

44. The quality of the data provided was often poor: not all questions were answered and often very general information was provided that made the answers difficult to interpret. The poor quality was probably the result of several factors: the low motivation to respond, problems with the questionnaire format and difficulties in defining the parameters of international projects.

## F. Further development

45. Experience with the preliminary phase was promising, although at times frustrating. Work on the database should, however, continue, although perhaps a different modus operandi should be sought. This could include, for instance, the tracing of information in related databases and sources of information with possible direct linkages from the HEUNI database, with no attempt to collect and copy detailed information from other sources. Possibilities of organizing national focal points for projects could also be explored.

# IV. Conclusion

46. The overall experience reported above by HEUNI and the very limited number of responses received by the Centre for International Crime Prevention to the questionnaire on international technical cooperation in crime prevention and criminal justice suggest that the establishment of a centralized database is of very limited value and utility, in particular when one considers the overall quality and content of the responses.

47. The level of utilization and responses by Member States, United Nations and non-United Nations entities and non-governmental organizations strongly indicates that the collection of information on projects involving international technical assistance and training in the field of crime prevention and criminal justice and attempts to establish central clearing houses for such activities, while laudable as a concept or as an ideal, do not attract the support or interest of the various parties.

48. The very limited success of the HEUNI database, in terms of levels of response and utilization, is not a promising basis for the expansion of such enterprises in other regions. The poor result achieved by commendable effort, conducted by a well established and well endowed institution, must be gauged and considered in the context of the group of countries targeted by the database. The database was aimed at a group of countries that had relatively well developed administrative and political infrastructures, countries that in general terms were classified as high-income countries, where the availability of financial and human resources to support the provision of such information should not present a major problem. Despite this, the group of countries targeted by the HEUNI effort consistently failed to provide and update information or to make use of the resources available.

49. The above experience shows that attempts to expand, replicate and/or adapt such an enterprise in other regions of the world, where the target countries may have very limited resources at their disposal, would not constitute a promising initiative. Such efforts may be seen and construed as unnecessary and wasteful, since significant resources would have to be invested in the gathering of summary project information of limited value in itself, rather than in direct technical assistance activities to improve crime prevention and criminal justice.

50. Other organizations have attempted to implement donor technical assistance coordination mechanisms and information collection systems, such as the United Nations International Drug Control Programme's Caribbean Coordination Mechanism, funded as a long-running technical cooperation project. When analysing effectiveness in achieving coordination and impact in

relation to the investment made, the net results have to be regarded as questionable.

51. It is widely accepted that coordination and clearing houses for all technical cooperation, not just that in the field of crime prevention and criminal justice, are most effective at the national level in the recipient country. Consistent and sustained efforts by the United Nations system and other institutions, such as the World Bank, through various mechanisms, such as its Comprehensive Development Framework, the United Nations common country assessment and the United Nations Development Assistance Framework and country programmes have, so far, proved of limited value, though they may offer opportunities in the future. Few recipient countries have established effective focal coordination points for technical cooperation and the few that have done so have only been partially successful in moderating the competing interests of various ministries, departments and non-governmental agencies, many of which often compete for the same resources from the same limited pool of international technical assistance donors and providers.

52. In the case of technical assistance in the field of crime prevention and criminal justice, little evidence exists of coordination or the establishment of focal points at the national level for such type of assistance, notwithstanding the recommendation contained in resolution 1999/24 to that effect. As a point of interest, it should be noted that the only Member State responding in a positive manner to the question as to whether it had established such a focal point also stated that it was not a recipient of technical assistance in the related field.

53. Nonetheless, the establishment of such focal points at the national level is a desirable and positive development, as the Commission may wish to reiterate, provided that such an initiative is accompanied by the provision by the national authorities of the minimum required resources, the authority to collect information from the various actors active in the field in the country and the creation of an effective machinery for that purpose.

54. In relation to the possibility of expanding and sustaining the pilot database and collection of information on international assistance in crime prevention and criminal justice as a standing activity, the conclusion from the practical results so far achieved suggest that such an activity would be tantamount to a misallocation of the very limited regular resources available to the United Nations in this field. Were such an initiative to be financed with extrabudgetary funding, its sustainability could not be assured and, as already stated, the impact of such an investment could prove questionable.

55. Experience in the field of drug control would lend some support to the notion of establishing informal information exchanges and coordination mechanisms at the field level among representatives of recipient and donor countries as well as those of multilateral donors and providers of technical cooperation. Such initiatives have, in some cases, aided coordination, avoidance of duplication in technical assistance initiatives, contributing occasionally to achieving complementarity and joint initiatives. This has been the experience of the existing field-level information exchange mechanism for technical assistance in drug control, which operates only in selected countries where drug control is a significant issue. In future, an area that may offer some promise for coordination is the field-level-based United Nations Development Assistance Framework (see para. 51), which includes a provision for the establishment of inter-agency thematic groups at the field level for coordination, information exchange and possibly, at a later stage, joint inter-agency planning and programming.

56. In an age of decentralization and empowerment at the level closest to the intended beneficiaries, the notion of a centralized and/or regional clearing house should be discouraged, in particular when those centralizing efforts could be seen as espoused and promoted by the providers of the technical assistance. Such mechanisms could only be successful and sustainable if they emerged as an initiative of recipient countries at the national level. The Commission may therefore wish to reiterate its recommendation to Member States that they set up focal points and inform the Secretariat of their establishment. Depending on the reaction and response to such an initiative, the Secretariat could then be instructed to compile and make available a directory. Such an initiative, however, would have financial implications that the Commission would also have to consider.